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CIS

FOREIGN MISSIONS ACT OF 1981

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 854

TO PROMOTE THE ORDERLY CONDUCT OF INTERNATIONAL RELATIONS BY FACILITATING THE OPERATION OF FOREIGN MISSIONS IN THE UNITED STATES, THEREBY PROMOTING THE SECURE AND EFFICIENT OPERATION OF THE UNITED STATES MISSIONS ABROAD

JANUARY 25, 1982

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FOREIGN MISSIONS ACT OF 1981

MONDAY, JANUARY 25, 1982

U.S. SENATE,
SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY
AND THE DISTRICT OF COLUMBIA,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:15 a.m., in room 3302, Dirksen Senate Office Building, Senator Charles McC. Mathias, Jr. (chairman of the subcommittee) presiding.

Present: Senators Mathias, Rudman, and Eagleton.

Staff present: William C. Leonard, staff director; Marion Morris, professional staff member; Christine Sarcone, chief clerk; Margaret Crenshaw, minority chief counsel; and Roni Wechsler, Senator Rudman's staff.

OPENING STATEMENT OF SENATOR MATHIAS

Senator MATHIAS. The subcommittee will come to order.

I apologize for being a few minutes late in getting started.

I want you to know that I have made a tour of every artery of traffic in the city of Washington in an effort to get here on time. It is not very good out there this morning.

We are here, of course, to consider a bill which involves diplomatic reciprocity, which is not a subject that normally is associated within the purview of the jurisdiction of the Subcommittee on Governmental Efficiency and the District of Columbia.

Washington being the National Capital, however, and foreign governments usually wishing to locate within the confines of the 64 square miles of the District of Columbia, there does arise the question of who decides and how to make decisions on the location of embassy residences and chanceries. Chanceries, of course, are the business offices of foreign governments.

In 1975, Congress enacted the Home Rule Charter for the District of Columbia. This historic grant of limited Home Rule government in the District abolished a Presidentially appointed commissioner form of government which had existed for 100 years. It was terminated.

Since that time, Congress has withdrawn from many of the details of managing the District's daily affairs.

More and more, it is understood that the appropriate forum before which to take one's grievances about local matters is either the Mayor of the District of Columbia, the D.C. City Council, or the appropriate District regulatory body.

Only twice since the enactment of the Home Rule Act has Congress overruled District legislation. Significantly, the very first congressional resolution of disapproval overrode a local law which would have abrogated the city's own zoning process relating to this very subject of the location of chanceries.

In effect, the Congress, in disapproving the District of Columbia Location of Chanceries Act, reaffirmed its confidence in the existing District of Columbia Zoning Commission and Board of Zoning Adjustment.

The Foreign Missions Act, which is before us, in section 206, would infringe upon the Home Rule Act and would resurrect a federally dominated commission to rezone the District for chancery use.

The Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations are the international laws governing diplomatic relations between sending and receiving States.

Significantly, the Vienna Conventions, in conferring privileges and immunities on foreign governments operating in the United States, proclaim it the duty of the sending State to respect the laws and regulations of the host State.

There is, of course, beyond the stake of individual property owners, the central question presented by this legislation from a home rule point of view. Which is whether the expansion of Federal jurisdiction with regard to zoning that is envisioned by this bill and the attendant reduction of home-rule decisionmaking is justified by a sufficiently compelling Federal interest.

There clearly is a Federal interest, and it obviously must be served. That is inherent in the original cession of this territory to the Nation by the State of Maryland and in the erection of the District of Columbia as the Federal Capital.

But the proposed legislation is a dull, blunt instrument to accomplish that purpose, a purpose that should be attained by the minimum use of force and violence upon the democratic principle.

So, I, therefore, hope that this hearing will examine the nature of the Federal interest in the least obtrusive way.

[The prepared statement of Senator Mathias follows:]

PREPARED STATEMENT OF SENATOR CHARLES McC. MATHIAS, JR.

We are here today to consider a bill concerning diplomatic reciprocity—a subject one would not normally associate as being within the purview of the Subcommittee on the District of Columbia.

Washington, D.C. being the Nation's Capital, however, and foreign governments usually wishing to locate within the confines of the 64 square miles of the District of Columbia, there does arise the question of who decides and how to make decisions on the location of embassy residences and chanceries, the business offices of foreign governments.

In 1975, Congress enacted the Home Rule Charter for the District of Columbia. With this historic grant of limited Home Rule government to the District of Columbia, the Presidentially-appointed Commissioner form of government, which had existed for one hundred years, was terminated.

Since that time the Congress has withdrawn from many of the details of managing the District's daily affairs.

More and more, it is understood that the appropriate forum before which to take one's grievance about local matters is either the Mayor of the District of Columbia, the D.C. City Council, or the appropriate D.C. regulatory body.

Only twice since enactment of the Home Rule Act has the Congress overruled District legislation. Significantly, the very first Congressional Resolution of Disapproval overrode a local law which would have abrogated the City's own zoning process related to the locations of chanceries. In effect, the Congress, in disapproving the D.C. Location of Chanceries Act, reaffirmed its confidence in the existing D.C. Zoning Commission and Board of Zoning Adjustment.

The Foreign Missions Act in Section 206 would infringe upon the Home Rule Act and would resurrect a federally-dominated commission to rezone the District for chancery use.

The Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations are the international laws governing diplomatic and consular relations between sending and receiving states. Significantly, the Vienna Conventions, in conferring privileges and immunities on foreign governments operating in the United States, proclaim it the duty of such guest states to respect the laws and regulations of the host state.

Article 21 of the Vienna Convention on Diplomatic Relations states: "(1) The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodations in some other way; (2) It shall also, where necessary, assist missions in obtaining suitable accommodations for their members."

There is no question that the U.S. needs a better procedure than at present for conferring or denying privileges, benefits, and immunities on foreign governments operating in the United States. As a member of the Senate Foreign Relations Committee, I am particularly sensitive to the need for the United States to address the serious imbalance between the treatment accorded U.S. official missions in many foreign nations, and that accorded foreign missions in the U.S. And I recognize the need for the United States government to have the authority to enforce diplomatic reciprocity.

There has been a dramatic increase over the years in the number of foreign governments seeking to do business and be represented in the Nation's Capital. For example, in 1950, there were 72 accredited diplomatic missions in the National Capital Region. By 1975, there were 130 such missions. And by 1995, the number of foreign missions is expected to range from 140 to 176.

So the demands for suitable space by foreign governments in the Nation's Capital will continue.

At the same time, however, we have a responsibility to protect the residential neighborhoods of our Nation's Capital from incompatible encroachments. This is one of the basic purposes of local zoning law—to regulate land use.

Business offices of any nature, including chancery offices, are recognized by D.C. zoning law, as well as local zoning law in other major American cities, as incompatible with low density residential neighborhoods.

But beyond the stake of individual property owners, the central question presented by this legislation, from a Home Rule point of view, is whether the expansion of federal jurisdiction with regard to zoning that is envisioned by this bill and the attendant reduction of Home Rule decision-making, is justified by a sufficiently compelling federal interest.

There clearly is a Federal interest, and it obviously must be served. That is inherent in the original cession of this territory to the nation by the State of Maryland and in the erection of the District of Columbia. But the proposed legislation is a dull, blunt instrument to accomplish that purpose—a purpose that should be attained by the minimum use of force and violence upon the democratic principle.

I hope, therefore, that this hearing will examine the nature of the Federal interest and in the least intrusive way to serve it.

Senator **Mathias**. Not only the Chair, but some of our witnesses, are having difficulty reaching us, so we will ask first for Hon. Thomas M. Tracy, Assistant Secretary of State for Administration, Department of State, to lead off as our witness this morning.

Mr. Tracy?

TESTIMONY OF THOMAS M. TRACY, ASSISTANT SECRETARY OF STATE FOR ADMINISTRATION, DEPARTMENT OF STATE, ACCOMPANIED BY WALTER F. WEISS, DEPUTY ASSISTANT SECRETARY FOR OPERATIONS, AND HAROLD S. BURMAN, OFFICE OF LEGAL ADVISER

Mr. **Tracy**. Thank you, Mr. Chairman.

I am accompanied today by Walter F. Weiss, Deputy Assistant Secretary for Operations and Mr. Harold Burman of the Office of the Legal Adviser.

Mr. Chairman and members of the committee, I am pleased to have the opportunity to appear before you today to express the views of this administration on the proposed Foreign Missions Act, and more particularly, the provisions therein concerning the location of foreign missions and international organizations in the Nation's Capital.

The Foreign Missions Act, as we have testified previously before the Senate Foreign Relations Committee and the House Foreign Affairs Committee and the District Committee, is an important initiative affecting the conduct of our foreign relations and national security, and is strongly supported by this administration.

The Foreign Missions Act has been passed by the House as part of H.R. 4814, and has been reported out favorably by the Senate Foreign Relations Committee. A substitute bill, S. 1818, has also been introduced by members of this subcommittee.

One section of S. 854, section 206, as reported out by the Senate Foreign Relations Committee, affects the location and operation of foreign government activities in the Capital City, a necessary part of any reciprocity legislation, and a link in assuring security for foreign missions and protecting national security interests of the United States.

The U.S. Government has important treaty obligations concerning adequate and secure chancery locations for official foreign government missions to this country, which affect the interests of U.S. missions abroad.

The significant Federal interest involved cannot continue to be met in the Nation's Capital under existing municipal policy and regulations which do not balance Federal interests with local concerns.

Mr. Chairman, on this point the position of the administration is a fundamental one: It is neither feasible nor appropriate to provide for consideration of foreign relations and national security concerns without direct Federal participation through agencies charged with those responsibilities.

Section 206, therefore, involves an adjustment of the administrative process by which foreign mission locations are approved, and achieves a balance between Federal and municipal interests in the criteria to be applied as well as the process by which such decisions are made.

This includes participation of both Federal and municipal representatives in the decision process.

It is important to note that there is already ample precedent in the Nation's Capital for mixed Federal-municipal administrative bodies to resolve land-use issues affecting both jurisdictions.

What this section proposes, as passed by the House—the Dellums-Fascell compromise—and as reported out by the Senate Foreign Relations Committee, is consistent with that precedent.

The principal examples are: the District's present Zoning Commission; the National Capital Planning Commission [NCPC]; the Pennsylvania Avenue Development Corporation [PADC]; and the Joint Historic Landmark Commission.

It should also be noted that the location of Federal buildings is entirely within the jurisdiction of NCPC, which is a mixed municipal-Federal body.

The House compromise, section 206, retains the precedent of a mixed body, but, unlike the bill as originally introduced, places it within the District Government.

Section 206 is a must provision for the administration on this legislation, and one which is important to a proper functioning of any reciprocity legislation intended to enhance the protection of the U.S. interests in this area.

The position of the administration on this matter is clear:

One, there is a need for enactment of the Foreign Missions Act, in connection with our efforts to enhance and protect U.S. interests here and abroad, including establishment of a reciprocity policy;

Two, there is a substantial Federal interest in the operation and location of activities of foreign governments in our country;

Three, there must be a resolution of issues concerning foreign government locations in the Nation's Capital in connection with any reciprocity legislation;

Four, there must be Federal involvement in any process involving decisions on chancery locations, and criteria that recognize Federal as well as municipal concerns; and,

Five, the decision process must take into account the impact on national security and foreign relations, together with traditional municipal concerns.

S. 854 also authorizes the establishment of an Office of Foreign Missions in the Department of State, which we believe will enhance coordination between the Federal and municipal agencies involved.

That office will be responsible, within the Department of State, for providing guidance on issues involving reciprocity and national security, which is necessarily a Federal function.

The Office of Protocol of the Department of State will continue to perform its normal functions and will be the primary point of contact for foreign governments.

While the Department of State, through these offices, will review proposals of foreign governments with regard to certain issues relating to reciprocity and national security, it is also very important that the subsequent process involving decisions on particular locations be vested in a balanced agency or commission, which will reflect the concerns of both the Federal and District agencies charged with responsibility on these issues.

Mr. Chairman, section 206 of S. 854, either in its original form as introduced in the House and Senate, or as enacted in a compromise version in H.R. 4814—the Fascell-Dellums House compromise—provides for a balance of Federal as well as municipal interests. This compromise is now included in S. 854 as reported out by the Senate Foreign Relations Committee.

The compromise section 206 of S. 854 differs from the provision originally introduced principally by establishing a new Foreign Missions Commission of the District of Columbia, and, therefore, retaining jurisdiction in the municipal government and refining the applicable criteria.

It continues to provide both balanced Federal and municipal criteria and membership.

District authorities, on the one hand, are not inclined to accommodate this Federal interest, notwithstanding the very limited impact on the District. On the other hand, the Federal concern may be more effectively resolved by seeking to remove this issue altogether from District jurisdiction.

The compromise section 206 may provide a middle road which incorporates the needs of each side. This compromise has the support of the Department, and we believe will serve the overall interests, both of the city and the Federal Government.

Mr. Chairman, we have reviewed the provisions of S. 1818, a substitute bill introduced by the members of this subcommittee, and on the basis of our concerns expressed here, S. 1818 would neither accomplish a policy of reciprocity or the purposes of the administration in the enactment of the Foreign Missions Act.

By attempting to exclude from Federal jurisdiction those matters relating to the location of foreign missions in our country, and eliminating provisions concerning location of foreign missions in the Capital, S. 1818 would fail to implement important Federal concerns, and would result in a bill that would have to be opposed by this administration.

We will be glad to answer any questions you have.

Thank you.

Senator **Mathias**. Thank you very much.

From your statement I see that we are in agreement that there is a Federal interest. But I am afraid you do not agree with me that this particular legislation is the instrument to serve that.

Would that be a fair conclusion?

Mr. **Tracy**. Yes, I think that would be a fair statement.

Senator **Mathias**. The Department seems to contend that the Federal interest is not adequately served by the District of Columbia Board of Zoning Adjustment which has reviewed the chancery sites.

But there is Federal representation on that board; is there not?

Mr. **Tracy**. Mr. Chairman, I will let Mr. Burman from our legal adviser's office deal specifically with the areas of zoning.

Mr. **Burman**. Mr. Chairman, there is Federal representation on each of the existing boards or commissions within the District of Columbia which deal with land use resolution.

The concern that this administration has is that there is not on those commissions or boards representation of the Federal agencies involved whose key issues are, in fact, at stake in the resolution of disputes concerning activities of foreign governments in the Capital City of our country.

Senator **Mathias**. The Department's first suggestion on this, as I understand it, was to turn over the problem to the National Capital Planning Commission.

Mr. **Burman**. Yes.

Senator **Mathias**. And the National Capital Planning Commission declined to assume that role.

Mr. **Burman**. That is correct.

Senator **Mathias**. But is it not true that there is National Capital Planning Commission representation on the Board of Zoning Adjustment?

Mr. **Burman**. Mr. Chairman, we have the utmost respect for the Department of the Interior. It has tremendous responsibilities. But it is not charged with the responsibility for the concerns that fall within the area of jurisdiction of the Department of State, and the National Security Council, and the Department of Defense, and agencies related to the promulgation of our foreign affairs.

It, therefore, is not an appropriate method of representation in our view, for the interests that are vital to us on the Zoning Commission.

Senator **Mathias**. If you carried out that theory to its logical conclusion, we could have a rather interesting patchwork quilt.

Mr. **Burman**. If you reversed the process and amended that law which structures the National Capital Planning Commission, and put the Secretary of State on that Commission in place of the Department of the Interior, then I think Interior and the National Park Service would be greatly aggrieved.

Senator **Mathias**. But that is their business. Their business is to manage the affairs of the National Capital area and to plan for the National Capital area.

And, running pieces of real estate really is not the job of the State Department—countries, maybe, if you consider countries real estate, but not lots.

It seems to me that if you are going to give every department of government some kind of zoning authority for the particular functions that may impinge upon its jurisdiction, then we can have a very peculiar and unusual kind of governmental arrangement you could structure here.

Mr. **Burman**. Mr. Chairman, I think it is apparent that most of the interests of the other Federal agencies involved, while they may be different, have not produced this kind of concern within the executive branch of our Government.

The State Department, on the other hand, is vitally concerned with the location and the development of official premises for foreign governments in our country, whether it is in the Capital City or in any other city of the United States.

Obviously the greatest concern that we have is precisely in the Federal Capital of our country.

Mr. **Tracy**. Mr. Chairman, I would like to add this comment. It is an unfortunate commentary on the times in which we live, but the security of foreign missions has become a matter of increasing concern to the Department of State, not only in terms of the protection here in Washington, but also as it relates to our own missions abroad.

One of the efforts that we are trying to make is to cluster somewhat more effectively some of the foreign missions in an effort to protect them. I think you will hear from the Secret Service later on the subject of protection of foreign missions.

It is an unfortunate statement of the times we live in, but security has become much more difficult to provide to foreign missions today than it once was.

Senator **Mathias**. Then, of course, we are to have the direct representative of the Secretary of Defense whose own structures around town relate to defense activities. You can carry that on ahead infinitum.

It seems to me that an administration should work internally to reflect its needs and concerns and express them through the appropriate administrative institutions. We should not have each separate agency coming up here and there.

But leaving that aside because I doubt that we are going to agree on that, let us look at the proposal. The Department contends that the matter-of-right areas where chanceries can be located should be expanded. Is that not right?

Mr. **Burman**. Yes; our contention is that such areas should be expanded, but our principal concern is that those areas in which a matter of right location for foreign government chanceries exists today are unfortunately confined to those areas least acceptable to us from a security and representational point of view.

Senator **Mathias**. Let me explore this with you a bit. One of the purposes here is this. We have a variety of objectives that you have described. You have the increased security concern. In addition to the security feature, you want to get a handle on the whole problem so that you can deal reciprocally with other governments. This would give us a little leverage against other governments in relation to our Embassies in their capitals.

You just told me you would like to have the matter-of-right areas expanded. Let us leave the security question aside for a moment and look at the reciprocal or reciprocity question.

If you expand the areas of matter-of-right, how would this help you achieve better control over the reciprocity issue?

Mr. **Burman**. Senator, the legislation also provides in a separate section—section 205—for a review in advance by interested Federal agencies as well as the municipal police department and other interested agencies of the District of Columbia of any proposal of a foreign government, so that we will have the capacity to exercise political control at that stage.

However, it is very important after approval is given to a foreign government, to proceed with an application to have a balanced Federal-municipal body to pass on that application. At this point there would be a particular site to be approved.

There should be balanced criteria which ought to apply to such a decision. The process should be fairly balanced, representing both the Federal as well as the municipal concerns. This is most important to us.

We need to be able to show the international community that its concerns are, in fact, also being given the consideration which it is due and which we believe is not the case today.

Senator **Mathias**. You and I are in agreement that there has to be a balance between the Federal interest and the local interest. I have no problem with that. The gap between us may be how we do it and how you achieve it.

The bill limits the enforcement of decisions by the Office of Foreign Missions within the State Department concerning the privileges and benefits and immunities to equitable or other appropriate relief in Federal court; is that not right?

Mr. BURMAN. Yes.

Senator MATHIAS. That means that if a foreign government fails to notify the Office of Foreign Missions of its intention to locate or to contract for some enlargement or improvement, or for goods and services, or whatever, and if the Office determined that such benefits should not be conferred on the foreign government, then what?

You see that they have added three more stories to their building and there it is. It is a fait accompli.

The only recourse you have is to go into court.

Mr. BURMAN. There is an additional recourse, Mr. Chairman, which is a political recourse normally reserved for the more serious of situations between——

Senator MATHIAS. What do we do, put three stories on our embassy in Budapest?

Mr. BURMAN. I am talking about the receiving state in this case, the United States, which can exercise its persona non grata authority.

Senator MATHIAS. You would not do that. You are not going to take some member of the NATO alliance and say: "Send your ambassador home because you have enlarged the doorway of your chancery."

Mr. BURMAN. We agree, of course. But for the record, when you stated that we have no other means of enforcement, there is that other means.

Senator MATHIAS. Come on and be realistic.

Mr. BURMAN. We then would be limited to the enforcement provisions in the bill.

Senator MATHIAS. You have to go to court, then; right?

Mr. BURMAN. Right; unless other provisions were drawn on.

Senator MATHIAS. If a foreign government—let us say they come around and you deny them the benefits, and privileges, and immunities, and let us say they go ahead anyway. Then the only way you have to enforce benefits, aside from the persona non grata, which I am sure is always there but would not be used, that the only way you have of disciplining them under this bill is to go to court; right?

Mr. BURMAN. Yes; aside from other conditions which could be imposed by the Secretary.

Senator MATHIAS. The Chief Justice was out in Chicago yesterday telling us that we ought to stay out of court and find other ways to handle our disputes. Is it really smart for us to be building a whole new area of litigation into the Federal court system?

I might want to be a judge someday.

I do not know why I am discouraging you from this. [Laughter.]

Mr. BURMAN. Perhaps we can consider, in line with the Supreme Court Justice's comments, the establishment of an arbitration commission. He might be very pleased.

Senator MATHIAS. You have the District of Columbia Board of Zoning Adjustment and you are trying to put them out of business.

Mr. BURMAN. Our concern simply is to adjust that process so that it reflects our concerns as well as that of the municipality.

Senator MATHIAS. We are talking about reciprocity, of course. Let us leave the security aside for a moment.

You are talking about reciprocating. How do other nations do it?

Mr. **Tracy**. It usually is a twofold process. Normally you have to have, whether it is on the record or not, permission from the national government of that country for a location.

Then when you go through that process that may or may not be on the record——

Senator **Mathias**. That is true here too; right?

Mr. **Tracy**. Only in a very loose sense, Mr. Chairman.

It is true that the executive has the right to accept or not accept a nation in its totality, but that is like the persona non grata authority. It is a blunt instrument inappropriate for smaller issues.

Senator **Mathias**. I do not see any problem vesting you with that power. That is not the issue. If you want that power, I think there would be no problem there to give you that authority.

Mr. **Tracy**. I am simply responding to your earlier question about how other countries do this.

You first go to the national authorities and get their permission. That may or may not be the same as the local authorities.

Senator **Mathias**. Senator Rudman?

Senator **Rudman**. Thank you, Mr. Chairman.

Mr. Tracy, there is an old saying where I come from that "If it ain't broke, don't fix it."

I really want to get into that with you. Let us look at some case histories here recently. I have looked at some.

From October 1978 until the present, there were 12 cases on chancery locations. Eight have been approved. One has been delayed at the request of the applicant. One has approval and approval will be promulgated this year. One is pending. One is denied.

With that history, can you tell me what your problem is? What is the genesis of this legislation? Where did it come from and why are we talking about this this morning?

It seems to me this is working very well.

Mr. **Burman**. Senator, in response let me state this. The administration's position at the outset, while we are perfectly happy to dicuss the cases and we will do so, is that this process is important to the national security, and there should be and must be Federal participation in it, in an appropriate manner, and a balanced criteria that results in a full weighing of the Federal concern.

Senator **Rudman**. That is a non sequitur, Mr. Burman. That does not answer my question. I told you what the history is.

We have enough to do around here, with enough important legislation, without everybody having a new idea.

I want to know the genesis of this. Where did this come from?

Mr. **Burman**. The genesis is really early 1978. Prior to 1978 there was adopted a plan as provided by existing law by the National Capital Planning Commission which set out areas in which chanceries could locate.

It established a number of matter-of-right areas and areas that are of importance to us for security and representational purposes. Of course, the first area one thinks of is the Massachusetts Avenue area.

Subsequent to that time, the District Zoning Commission, as required by law, adopted regulations to implement the Federal plan. I might add that the Federal plan was approved by representatives of the mayor, the city council, and the House and Senate District

Committees, all of whom are represented on the National Capital Planning Commission.

The District Zoning Commission, however, in issuing its regulations, started a process which has led us to this table today. The only areas basically important to us for location of chanceries are the lower density, high security areas where we need to increasingly group chanceries because of security problems, taking into account the fact that 80 to 85 percent of the nations are relatively lesser funded, which cannot compete with the highest density areas.

These regulations, which in our judgment were prejudical to the Federal interest, then shortly thereafter were followed by the introduction of a bill by the city council which would have extended the restrictions and basically put us out of business.

Immediately thereafter, you have the three major test cases which were of significance to us, politically of great significance to us, and in each case involving properties directly on or adjacent to Massachusetts Avenue within the Embassy Row area.

The Government of Bangladesh, a cornerstone of our policy in that particular part of the world, the Government of Iran—at that time a very important ally of the United States—and the Government of Saudi Arabia were the three examples.

In each of these cases, we reviewed the circumstances thoroughly and we saw that the impact on local communities essentially were minimum. They really were not substantial impacts in any of the three cases.

The word, however, was on the street. The District Zoning Commission had implemented regulations which in our view were highly discriminatory against chanceries, then the city council had then introduced an antichancery bill which subsequently was adopted by the city and which had to be overturned by this Congress which as we stated would have put us out of business.

We were frankly not surprised that the first three major test cases effectively were denied. The Iranian case was denied by the Zoning Commission, rather than the Board of Zoning Adjustment, because of the circumstances of the case.

Bangladesh was denied by the Board of Zoning Adjustment because of a few parking spaces. Obviously, in our judgment, there clearly was no weighing of the significant Federal impact and the international impact.

In the case of Saudia Arabia, it was delayed to such an extent and involved such a controversial hostile hearing that the Government of Saudia Arabia, after complaining very seriously to the State Department, backed off and would not proceed further in connection with that property.

Then you have the following circumstance. Shortly after those three cases, the city law that we spoke of was vetoed by the House and Senate. This committee which has primary jurisdiction, was concerned principally with the issue of how zoning decisions are made in the District of Columbia.

But the State Department's concern was the adverse impact on the Federal interest. The National Security Council was concerned also. We made that fully known to Members of the House and Senate. The Federal concern was that how we get chanceries effectively located. That process was being seriously impaired by the city.

After the veto by the Congress of that law, we had several other cases that proceeded, none of which frankly were nearly as important to us as the first three major cases on Massachusetts Avenue.

The new cases began to show up with affirmative results from the Board of Zoning Adjustment. I would submit to you that those different events are not unrelated to each other.

Senator RUDMAN. They may not be unrelated, but what you are saying is that due process takes a long time in the case of Saudia Arabia.

But there has been one denial, which was Bangladesh. Whether it is a right or wrong reason, I do not know. But it is one denial.

Mr. BURMAN. Iran was also denied.

Senator RUDMAN. Maybe the city had better judgment than the State Department on that one.

But getting down to zoning abroad, what is the law in most of these countries around the world? I have done a little research on it. I understand that we have to conform with certain laws and ordinances around the world in some places.

Of course, there are countries, I am sure, where the decisions are made very quickly; the Soviet Union, for example. But tell me about other Western nations where they may have zoning regulations.

Mr. BURMAN. At the request of this committee we sent to 25 posts abroad a series of questions.[1] We differ with some on this committee in interpreting the answers.

Frankly, we could have asked the questions in a different manner and had a very different set of results.

A point is made that there is, in many of these countries, some type of land-use process. Most nations, although not as many as one might expect, have some type of internal land-use process, whether it is in the form of a zoning commission, as we know it, or otherwise.

The significant issue is whether you have national ministry level personnel controlling or involved in that process, and whether the key to the process for the United States, which is true in almost every capital abroad in which the United States is represented, is, in fact, approval by the foreign ministry and the national security agencies.

I think I could state as a simple fact in our world that we deal with in the Department of State, that the United States locates nowhere abroad without the approval of those national agencies, whether it is on or off the record.

Speaking to the answers that we received, we have an interesting set of results. Of the 25 nations, 18 of them have direct participation of either national ministry level personnel or personnel in the local process appointed by national ministries.

Of the remaining number, two more involve direct appeal, as in London, to the foreign ministry if efforts cannot be resolved appropriately with the local process. And, in another case, it is a somewhat similar process.

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[1] See p. 129.

In the remaining capitals in which we have important missions, like Tokyo and Paris and Bern, as a factual matter, in each case the real decisions and real concerns are being dealt with in national security agencies on their side.

This is the reality that we deal with abroad.

In our view, what we are proposing here actually is much less intrusive than, in fact, the process that exists in most countries. It is a matter of importance for a variety of national security reasons where foreign nations locate.

Senator RUDMAN. I understand there is some difference in the answers. I intend to read the basic material myself. But let me point out to you that what you have talked about as a balanced compromise is hardly balanced at all. Let us be very frank about it.

If we enact this legislation, this will be very heavily weighted to the Federal side with a tilt, four to three—and unless you, of course, want to call the Architect of the Capitol neutral—then we will have a situation where the Federal Government really, in the final analysis, will decide where each chancery should go. I guess that is what you believe is correct.

Mr. BURMAN. Senator, with all due respect to the Architect of the Capitol—and while the Federal Government, in the broad sense, includes both sides of Pennsylvania Avenue—I would submit there are many, including, I believe, this Architect, who believe that being responsive to the appropriate committees in the legislative branch is not quite the same as being part of the executive branch.

We see that as a balancing act. It is for this reason, for example, that the National Capital Planning Commission has representatives of the House and Senate District committees.

While they are Federal in one sense, as are Federal agency representatives, there really is a very wide difference of opinion and responsibilities between them.

Senator MATHIAS. If the Senator will yield, I find this fascinating. It is finally out on the table that the State Department does not really consider the Congress part of the Government. [Laughter.]

Senator RUDMAN. I was just going to say, Mr. Chairman, that if you really wanted a neutral and detached board, you would have three on each side and we would find some other way to pick the seventh member.

But truly this would be a neutral member. I think that would not satisfy the State Department.

Mr. BURMAN. The executive branch is open to recommendations. We are looking for a balanced solution.

Senator RUDMAN. With just a little tilt to the executive branch; right?

Mr. BURMAN. Senator, speaking frankly, the easiest thing for the State Department to do would be to do what some groups within the executive branch which would prefer—that is to propose a Federal agency to deal with this important Federal issue, period.

It would be easiest, and frankly, in some respects, better for us.

But since we have not done that, I think it is apparent we are striving to find a compromise. We are trying to find a means of getting the Federal interest properly weighed, and yet keep a balance that is sensitive to the city's interest.

Senator RUDMAN. My reading of the statute is this. I respectfully disagree with you.

What you essentially have done with this statute, in the form you are promoting it, is to give lip service to the idea of the sharing of responsibility and authority. But in the final analysis, you have it just exactly as you want it. It is not much different than having the decision made by Mr. Haig or Mr. Tracy.

With all due respect to the Federal interest, looking at this track record and knowing the history of my State, which believes very greatly in home rule, including in our own capital, I really think that the people of this community are entitled to some say in how they live.

I think it is a tough enough place to live already. I think the people who have investments in real estate in this community have some basis for wanting to decide how they live within the realm of what is reasonable.

I point out to you that the District of Columbia zoning ordinance has an appeal procedure within it and if grave injustice is done, there is an appeal to the court here in this community.

I think that, after all, it is the kind of due process we are used to in this country. Obviously, some foreign countries do not have our history and our way of dealing with these kinds of problems and the rights of individual citizens.

My own view is that without some more compelling evidence, I would have a hard time supporting the compromise that came out of the House and Senate Foreign Relations Committees.

Mr. BURMAN. In the legislation now before this committee, there is nothing that precludes an appeal to the courts.

Senator RUDMAN. I understand that.

Thank you, Mr. Chairman.

Senator MATHIAS. There are some other features of this bill that have not received very widespread attention, but are intriguing to me.

As I mentioned a moment ago, this not only gives you some control over real estate, but over goods and services; is that right?

Mr. TRACY. Yes, Mr. Chairman, that could be the case in individual circumstances.

Senator MATHIAS. Suppose you put a general ban on some nasty ambassador, maybe a nice ambassador of a nasty country. [Laughter.]

Let us say you have a ban on somebody. You tell them that they cannot buy a car, that they cannot have a new car. Being a nasty man or being a nice man from a nasty country, he goes out to Ralph Brown in Bethesda and he buys a new Buick anyway.

How are you going to let Ralph Brown know that this man was not supposed to have bought a car?

Mr. TRACY. He may buy the car but he would find a hard time registering it.

Senator MATHIAS. How are you going to let the Maryland Department of Motor Vehicles know that you do not want him to register it?

Mr. **Tracy**. You raise an interesting question. Maybe we can discuss how this came about.

In the state directed countries of Eastern Europe and in some of the under developed worlds, the Department and other——

Senator **Mathias**. I understand the kind of harasssment that we can give. But I am trying to be practical.

You can send out a circular to the automobile registration authorities, but let us say this ambassador in question goes to the Hilton Hotel and contracts for 1,000 for dinner because the dictator that he represents is coming to town and he wants to make a big splash.

How are you going to let all the hotels in town know that this fellow is off limits? There is no registration involved in eating a dinner, but maybe there ought to be. [Laughter.]

Mr. **Tracy**. First of all, this authority would be used only in the most unusual and difficult cases.

Senator **Mathias**. Those are the kinds of authorities that the Congress has to be very jealous about.

Mr. **Tracy**. I understand.

Let me say that as a matter of fact with the introduction of this legislation into the Congress, that we have made substantial progress in a number of long-term problems in Eastern Europe.

We have been offered rights that we have not been able to win in any other way for the last 20 or 25 years. So, I think that the usage of this will be judicious and only as a last resort will it happen. The fact is, of course, that if it were necessary we would inform an embassy that we were taking a particular action, be it with regard to the ambassador's car or the authority that we might have over travel, which we do in some countries and in some circumstances.

I think it would be most unusual for a country to then defy that order, but the means would be there for us to go and bring remedial action if they did so.

Senator **Mathias**. There is the need for reciprocity, of course, but I think before we go down this road we ought to think about how we are going to do it and not just flail around in the air and issue orders that we do not really have the machinery under our Federal system of Government to enforce.

It is a very different kind of Government than the centralized governments that are in existence generally in Europe.

With the permission of Senator Rudman, I might suggest an unusual procedure. If you gentlemen would be willing to step aside for a moment, I see that we have Mr. Fauntroy and Mayor Barry who are here. They are on record on this issue, so I suspect they are going to be very brief.

We might call them and ask you to step aside and come back a little bit later.

We will now call Delegate Fauntroy.

TESTIMONY OF HON. WALTER E. FAUNTROY, DISTRICT OF COLUMBIA DELEGATE TO THE U.S. HOUSE OF REPRESENTATIVES

Mr. **Fauntroy**. Thank you, Mr. Chairman.

Thank you very much for bringing me in at this point so that I could take care of a long-standing commitment this morning.

I appreciate very much the opportunity to appear to testify in this matter.

Senator **Mathias**. We are happy to have you here.

Mr. **Fauntroy**. Mr. Chairman, I am here in strong opposition to S. 854. My opposition is directed at section 206 of S. 854.

According to the report of the Senate Committee on Foreign Relations, S. 854 is designed to

> * * * address a serious and growing imbalance between the treatment accorded in many countries to official missions of the United States, and that made available to foreign government missions in the United States.

In short, the U.S. Department of State wants to insure reciprocity—equal treatment for our foreign missions

Yet, section 206 of S. 854 will actually expand the rights and freedom of foreign missions located in the District of Columbia. Foreign missions, under this bill, will be able to locate in residential areas and will be able to locate in certain areas as a "matter of right."

Moreover, meaningful input from local citizens into decisions regarding the location of foreign missions in the District of Columbia will no longer be allowed if section 206 of S. 854 becomes law.

While the location of foreign embassies and chanceries certainly has an element of "Federal interest," it also involves a major local interest.

This major local interest was recognized in 1958 when a burgeoning residential population coupled with an expanding community of nations prompted comprehensive rezoning in the District of Columbia.

An important aspect of this rezoning was the determination that chanceries were essentially business uses and, therefore, were not allowed to locate in any residential area as a matter of right.

In 1964, the Congress went even further when it passed the Chancery Act, otherwise known as the Fulbright Act. Under that act, no chancery is permitted to locate in a purely residential district and in medium or high density apartment building districts, chanceries are permitted to locate only if a special exception is obtained.

The need to preserve residential areas is recognized in the Fulbright Act.

Section 206 of S. 854 seeks to reverse the wisdom of the past and make a perceived Federal interest the superior factor in locating chanceries. No basis whatsoever has been established to justify this dramatic change in what is now law. There is not a shred of evidence that the system developed as a result of the Fulbright Act has, in any way, had a negative impact on the Federal interest.

By creating a new Foreign Missions Commission, giving this Commission absolute authority over the location of foreign missions in the District of Columbia, and providing for a majority of Federal members on the Commission, including the Secretary of Defense and the Chairman of the National Capital Planning Commission, land use decisions are effectively taken away from the local government.

In no other jurisdiction in the United States does the Federal Government exercise such authority over local land use matters.

Another sharp departure from the system established following the enactment of the Fulbright Act is found at section 206(d) of this bill. Under the current system, citizens may actively participate in the hearings involving the location of chanceries.

This active participation is allowed because the proceeding is an adjudicatory proceeding. Section 206(d) provides that determinations made by the Commission "shall be considered rulemaking," thus foreclosing active citizen participation.

There are other defects in section 206 of S. 854 as written.

At Section 206(b)(1), it is provided that the chairperson of NCPC serve as a voting member of the proposed new commission.

At Section 206(f)(2), it is provided that NCPC review and comment on proposed actions of the new commission.

Further, section 206(f)(1) provides that determinations by the Commission must be consistent with the comprehensive plan for the National Capital.

The comprehensive plan is adopted by NCPC. Thus, an inherent conflict arises by virtue of the fact that the chairperson of NCPC will be reviewing his own actions.

There is also an apparent conflict between the sections concerning location of chanceries as a "matter of right."

At sections 206(c) (1) and (2), it is provided that the new commission shall "establish areas within which chanceries may be located as a matter-of-right, and establish additional areas within which chanceries may be located."

At section 206(h), however, it is provided that nothing in the act or subsequent regulations of the new commission shall be construed as requiring a special exception or variance.

The conflict is apparent. Either all chancery locations are a matter-of-right or special exceptions and variances are required.

It is impossible to have areas which do not fit under the matter-of-right category without requiring a special exception or variance.

Despite the absence of evidence to justify a change; and despite the failings of section 206, the House of Representatives has given life to it.

In embracing the creation of a new Foreign Missions Commission, the House overlooked many viable, alternative approaches to the problems of the current system as perceived by the Department of State.

Indeed, most witnesses, close to the current system, were unable to share the Department of State's view that problems, in fact, exist.

If it is reciprocity that we need, real equal treatment for our foreign missions, I believe the bill you have introduced, S. 1818, does the job and does it well. Certainly the Federal preemption section of your bill strengthens the hand of the U.S. Government in relating to local governments.

If it is security that is a paramount need, we should accept a standing offer by the Mayor of the District of Columbia to create a special area solely for the location of chanceries in the Distict of Columbia.

Under this plan, all chanceries would be located in one area, and less costly security measures could more easily be implemented.

If we need a proven, workable system for locating chanceries in the District of Columbia, then we do not need section 206 of S. 854.

To the proponents of this measure, I would ask: What is really behind this effort to change a system which for years has worked well?

I would submit that there is no sound basis if there is a basis at all.

On that basis, Mr. Chairman, I oppose S. 854.

Thank you.

Senator **MATHIAS**. Thank you very much.

My only question is this.

There has been some stirring around about some sort of compromise in the other body. I am wondering whether you or your staff were involved in any way in this compromise. It is a so-called compromise.

Mr. **FAUNTROY**. No; I must say to you, Mr. Chairman, that neither I nor my staff have been involved in any compromise. In fact, I discouraged any talk of compromise for the reason that the current system works.

Senator **MATHIAS**. So, you never agreed to the so-called compromise?

Mr. **FAUNTROY**. No, I did not.

Senator **MATHIAS**. You do not support it as it is reflected in the language in the House bill?

Mr. **FAUNTROY**. No, I do not.

Senator **MATHIAS**. Senator Rudman?

Senator **RUDMAN**. I think his position is clear. I have no questions.

Senator **MATHIAS**. Thank you.

We now will hear from Mayor Barry.

Mayor Barry, we are glad to have you.

TESTIMONY OF MARION S. BARRY, JR., MAYOR, DISTRICT OF COLUMBIA, ACCOMPANIED BY BARBARA C. WASHINGTON, ASSISTANT CITY ADMINISTRATOR FOR INTERGOVERNMENTAL RELATIONS, AND KWASI HOLMAN, EXECUTIVE ASSISTANT, OFFICE OF PLANNING AND DEVELOPMENT

Mr. **BARRY**. Thank you, Mr. Chairman, and members of the committee.

For the record, I am Marion S. Barry, Jr., Mayor of the District of Columbia.

With me is Barbara Washington and Kwasi Holman.

I am pleased to testify before you today on S. 854.

First, I would like to thank the committee and specifically thank you, Mr. Chairman, for your continuing support for the citizens of the District of Columbia on this vital issue.

I share your views as expressed in your Minority Views included in the Foreign Relations Committee's report on this issue where you stated that the "case has not been made for such a change" as envisioned in S. 854.

As I have stated on several occasions during hearings before both House and Senate committees, the current procedures for determining the location of chanceries is the result of many years of planning and consultation by numerous Federal and local entities including the Department of State and the Congress.

The question that is raised by these hearings is whether this series of planning and zoning procedures which have served the Federal, District, and international interests well in the past should be precipitously reversed on the basis of insubstantial evidence and replaced by an untested procedure that will contribute to the proliferation of planning bodies that exercise control over various aspects of the land-use controls in the District of Columbia.

As you know, one of the major goals of my administration is to improve the planning process in the District of Columbia.

While we have made considerable strides in this area and are committed to the completion of a citywide comprehensive plan in conjunction with the National Capital Planning Commission by the end of the current fiscal year, the passage of this bill and the required changes in both Federal and District planning processes will almost inevitably cause further delays in this long-awaited process.

Further, as you have stated: "This is a step backward for the Congress for Home Rule, and for the democratic process for which the United States is recognized around the world."

The current procedure for the review of chancery applications was the result of a lengthy planning and zoning process that was completed in 1978, a process which included substantial involvement by the Department of State and the National Capital Planning Commission.

As a result of that process, the Zoning Commission of the District of Columbia, pursuant to Orders 235 and 237, adopted map and text amendments that created a Mixed Use Diplomatic District which is in conformance with the NCPC Foreign Missions and International Agencies element of the comprehensive plan for the Nation's Capital.

If the basic elements of section 206 are adopted; this considerable body of work was in vain, although the Department of State indicated at the time that they were essentially satisfied with the results.

I should note that if there were remaining areas of disagreement, there are adequate Federal and local mechanisms in place that could address any alternative proposals. To date, no such requests have come forward.

Since the adoption of the current Diplomatic District only two applications have been denied. Since the last hearing on this subject in July of last year, two additional applications have been approved.

A planned unit development for the French Government was approved as well as an application by the Government of Cape Verde. A third application by the Government of Chad is to be considered on the 27th of this month.

Despite this continuing evidence of prompt and efficient consideration by entities of the District Government, section 206 of this bill continues to move forward in the Congress.

I continue to insist that the most important elements of S. 854 can be effectuated without this serious diminution of the District's Home Rule authority.

Unless it is the intent of Congress that these office buildings known as chanceries are to be allowed without restriction in most residential neighborhoods, I submit that current procedures will accommodate most reasonable requests for chancery locations.

While much has been made of the inhibiting effects of the decisions made in the two cases that were denied, it is clear that the very existence of section 206 may be a greater deterrent because governments may not move forward in the hopes of getting a better deal.

However, I am not convinced that there are large numbers of countries that are relying on the passage of this section. In fact, during these hearings, although a solution has been offered, I am still in search of the problem that needs to be addressed.

During the period following the hearing on this matter on the House side before Chairman Dellums, my representatives engaged in a good-faith effort to identify the problem with representatives of the Department of State.

Since those negotiations did not result in a clarification of the specific scope of the problem that needed to be addressed, it was not possible to agree to a compromise solution.

I feel that the current process is equitable and affords all interested parties—foreign governments, the Department of State, and the citizens of the District of Columbia—a fair mechanism to present issues and devise solutions.

I urge your subcommittee to consider this issue carefully and to protect the interests of the citizens of the District of Columbia by deleting section 206 and permitting the current process to continue.

I am confident that the current practices developed over many years with substantial Federal involvement is fair to all interests and represents an equitable solution to a difficult situation.

Mr. Chairman, again I would like to express my sincere appreciation for your support and urge the subcommittee to continue to raise questions with the Department of State and continue to try to get answers that have not been forthcoming.

Again, we do not think the case has been made at all. The facts do not support the conclusions. I urge the subcommittee to be vigorous in this area.

Thank you.

Senator **MATHIAS**. Thank you very much.

I gather that if I were to pose to you the same questions that I did, then I would get the same answers?

Mr. **BARRY**. Yes, we are united on this.

Senator **MATHIAS**. Senator Rudman?

Senator **RUDMAN**. I have no questions at this time.

Senator **MATHIAS**. Mr. Mayor, we want to thank you very much.

We will ask the State Department to come back to the table.

We will not hold you much longer.

I am interested in the collateral actions as to how you would proceed.

What would happen if a foreign mission was under great pressure for space and simply had to get some more space and went out and rented space? What would you do?

Mr. **Tracy**. Under the terms of this bill, Mr. Chairman, they have to give us 60 days notice of a desire to go out and rent or purchase or whatever. That would have the force of law.

If they failed to do that, we would have the right to then seek an injunction against the seller, if that were necessary, to prevent the consummation of the lease or sale as the case may be.

Senator **Mathias**. That again goes to court; right?

Mr. **Tracy**. Yes, except that it is very rare indeed when there is a direct instruction from the Secretary of State to diplomatic missions on something of this type to see an open defiance.

Senator **Mathias**. I think what might be a more probable scenario would be this. You would have the "check is in the mail" syndrome; "We sent you a notice that we wanted you to do this and we did not hear anything from you. So, we went out and rented this apartment."

What about that?

Mr. **Tracy**. There are other means. For example, we could deny that building status as a chancery under the Vienna Convention. Therefore, that building would not have inviolability of its records and archives.

There are a number of steps that could be taken if there were open defiance.

Senator **Mathias**. There is no way that the innocent apartment owner or building owner could have any notice of these transactions; is that right, until it is all over?

Mr. **Tracy**. The foreign government would be required by law to inform us in advance of their intention.

Senator **Mathias**. Let us say that they say "the notice is in the mail" kind of thing.

Mr. **Tracy**. As I said, I think as a practical matter that is quite unusual. In 20-some years at the State Department——

Senator **Mathias**. This whole problem is quite unusual.

Mr. **Tracy**. Yes, it is.

Senator **Mathias**. We are dealing with a very exotic and esoteric subject.

I think I have one more question for you.

Subsection (j) provides "that the Secretary shall require foreign missions to comply substantially with the District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with international obligations of the United States." That raises the specter of the days when I was a city attorney.

I worked for a wonderful man who was the mayor. He only had one failing. He could not say "no." Citizens would grab him on the street and say: "Mayor, I want a bigger bay window on my house. Is it okay with you?"

He would say "sure" and it would be a little over the building line. "Does that matter?" "No, it does not matter."

So, then it would end up on the desk of the city attorney as to whether or not that was a substantial compliance with the building code. I got very sensitive on this subject of substantial compliance.

It could be read a great number of ways. My mayor, in the goodness of his heart, read it in a very liberal way.

But, this gives the Secretary of State a great deal of latitude in interpreting the plumbing regulations, for example, and the heating and the electrical and the mechanical and the fire codes and all of these things.

Somebody—I assume the Secretary would not do this personally—but somebody is going to have to say: "Well, that is a substantial addition."

Do you really want to be involved in this code compliance thing? Has this been the source of complaint? Is this the kind of Sword of Damocles that you want to hang over the foreign government about turning off his water or turning his valve if he does not behave?

Mr. BURMAN. Senator, there certainly is some feeling on our side that we might be just as well off without that provision except that it was added after some lengthy discussions with municipal officials involved.

In the areas of building code compliance, in an effort to create a mechanism for meaningful compliance, we had meetings on this subject.

The situation today is that, pursuant to the District of Columbia building codes, and regulations promulgated thereunder, foreign missions are not obligated to comply.

We have a fundamental problem in the esoteric area, as you put it.

When a building or property is used for, or is capable of enclosure for, diplomatic purposes, pursuant to existing conventions under which we operate—which are, of course, of critical importance to the security of the U.S. missions abroad, then those premises are no longer able to be subject to mandatory compliance by reason of inviolability of immunities that attach to diplomatic properties.

You cannot require compliance about anything. There are very good reasons for this.

There are highly sensitive security and communications, and other kinds of mechanisms which are intrinsic to chancery operations, which are atypical.

For example, it is very important for any chancery as to exactly what kind of electric and fire system that they install so that there is no perceived compromise of their premises.

This is equally important to us overseas.

For these reasons, typically there are areas in which certain types of external construction features may not be fully in code compliance, but may be important for the security point of view.

Typically, I think, most governments are good neighbors and comply to the greatest extent possible.

Senator MATHIAS. I would agree with that. Most governments are going to comply. Most citizens will comply with the law.

But our problem, of course, is with those rare exceptions where they do not.

Mr. BURMAN. We would take upon ourselves a set of obligations, if you will something that may not be able to be done as well or perhaps at all by municipal officials.

A foreign government is not obligated to discuss with us its reasons or its desire to use its own fire alarm system as opposed to the one that may be provided by the municipal code, although they know and we know there are security reasons for those modifications.

The feeling was that they may be more willing to discuss those modifications with our architectural and engineering staffs who, after all, take care of the same problems abroad in connection with U.S. missions.

It was for this reason that we saw that provision as a means of actually assisting the city's efforts to obtain conformity where it is feasible.

We anticipate working closely with city agencies and officials involved in this process, but in a manner which we think may be more acceptable to foreign governments, since if we attempted to be overly intrusive in matters that they consider of serious security interest to them, then, of course, we could suffer the same result in their capital.

Our feeling is that we would improve local compliance as opposed to detracting from it.

Senator **Mathias**. You might someday get a secretary like my old mayor: "Sure, Ambassador, go ahead."

Mr. **Burman**. We, all of course have to assume that any secretary will be reasonable and responsible in the exercise of that authority.

Senator **Mathias**. I hope that, too. That is always our plan when we enact laws. We want everybody to be reasonable and responsible.

But as human beings we know it does not always work out that way.

Senator Rudman?

Senator **Rudman**. Mr. Tracy, have you personally had a chance to review this packet of material that was sent over to the committee on July 23 containing the answers on each of the nations that was listed in our request?

Mr. **Tracy**. Yes, Senator, I did. We sent them out by cable and I read them as they came in in telegraphic form.

Senator **Rudman**. Did you attempt to distinguish between the replies of nations which might have a system of government that was relevant to our own, like the Western democracies compared to Saudia Arabia or to the Soviet Union?

Mr. **Tracy**. I believe that the actual requests came from the committee for the countries, the capitals themselves.

Senator **Rudman**. You do not understand.

In analyzing the responses, did you attempt to make a differentiation or a comparison between the answers from nations which have comparable governments to ours in terms of their citizens as compared to those governments which do not have systems such as our own?

Did you attempt to make that kind of comparison?

Mr. **Tracy**. Yes, it is fair to say that you can make some comparisons in the state-directed economies where we are much more at the whim of the government and the officials. That, indeed, partly is what this act is aimed at.

In the underdeveloped world or the lesser developed world, we have problems, but they tend to vary greatly from country to country. Some are rather easy and some are rather complex.

In the developed world, like Western Europe, the problems are very much in the classic traditional mold. Those countries adhere very closely to the Vienna Convention and, indeed, in most cases, both we and they have our missions dating back before the Second World War.

So, the number of changes are few and our relationship is stable. A number of times we have had difficulties, but they have generally been minor.

Senator RUDMAN. Let me suggest to you this. In looking over this material earlier and then looking at it again just now, I have just picked out five countries that you might look at after the hearing today.

If we are going to have discussions, you might look at Great Britain, Canada, France, Italy, and the Netherlands. If you look at the answers from those countries, unless I misread this data, you will find that the rights of foreign nations, compared to the rights of their citizens in the traditional form of representative government that they have, are not dissimilar to the situation we have here in this country today.

Yet, if you look at the nations such as the Soviet Union and Saudia Arabia, and a few others, you will find that they have a system of locating these missions or these embassies which is fairly similar to what you are proposing today.

It seems to me from reading this information, that is the case. You may disagree with that conjecture, but if you want to read it very closely, I think that is the result you will come to.

Mr. BURMAN. Senator, if we were in fact going to try to emulate those nations, we would seek greater control and we would simply ask for Federal agency administrative authority.

We have not done this. We have not done this in the bill originally introduced, and we are not seeking that today. We are seeking a much more balanced process.

But I would offer one other comment.

In the capitals that you mentioned, there is less direct Federal ministry level involvement. You also, however, do not find a track record of several years of this type of conflict and you also do not find local municipal authorities in those cities having introduced or adopted laws which would cause the national security and foreign ministry counterparts great difficulty.

So, what we are really saying in a sense is this. You could read those replies in a different direction, that is, that it has worked cooperatively in those capitals, but it is not working cooperatively in this capital.

Immediately prior to 1978, Senator, you cannot find much evidence of a conflict, certainly so far as the Department of State is concerned, and there were no issues before the Congress that we were directly involved in.

The track records since in 1978 has been strikingly different from our point of view. I think that really is what you will see. You can read that out of this document as well.

Senator **Rudman**. Let me wind up by saying this. I want to tell you that I have read this legislation. You can read it anyway you want to read it. I read it like a lawyer who has practiced law for 21 years. Make no mistake about it.

I don't think anybody can say this legislation does not invest total and final authority in the hands of the Federal Government over what is located in Washington. That is what this law does. You can structure it any way, but that is the end result. That is No. 1.

No. 2. You talk about some strife, difficulty, and so forth. This Nation of ours, in the last 10 years, has had a lot of strife about a lot of things. There is strife about nuclear powerplants and strife about locating all kinds of projects. Strife is a natural result of representative government and a democracy and due process.

I am afraid from my point of view that foreign nations will have to understand that about our Nation's Capital. I cannot agree with this legislation whatsoever.

I try to be reasonable, but to put this kind of a burden on the citizens of this community is not fair to them. They are already second-class citizens in some ways in terms of their representation. I do not think we ought to make it any worse than it is.

But I appreciate your testimony.

Thank you, Mr. Chairman.

Senator **Mathias**. Let me wind up with this.

Let me ask you if you are familiar with Mr. Richard Gookin?

Mr. **Tracy**. Yes, I believe he is here today.

Senator **Mathias**. On November 7, 1978, Mr. Gookin wrote to Judge Drewes, a member of the Supreme Court of California sitting in San Francisco.

Without objection, I will insert that letter in the record.[1]

Senator **Mathias**. But the pertinent sentence in it reads this way:

> It is the position of the Department of State that the question of whether consular premises conform to local zoning regulations is a matter to be determined in accordance with the laws and regulations of the municipal jurisdiction in which the property is located.

Is that still the position of the Department of State?

Mr. **Tracy**. First of all, I think we would have to draw the distinction between diplomatic mission and a consular establishment.

The consular establishment does not have the same authority and immunity that diplomatic missions do. Therefore, I think that particular case applies more to consulates than it would to a diplomatic mission.

As I remember the Vienna Convention, consulates are entitled only to inviolability of their archives, whereas diplomatic missions are entitled to inviolability not only of the chancery but also the residences of the diplomats themselves.

There is quite a distinction in law.

Senator **Mathias**. The letter, I think, will be an appropriate addition to the record.

Let me ask you a very brief question about the International Center situation. It is my understanding that of the 14 existing lots, eight have been committed to leases between the State Department and some foreign government. These are 99-year leases.

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[1] See p. 739.

Why did the Department enter into 99-year leases if, in fact, you want to get a greater amount of leverage on these governments?

Libya was granted a 99-year lease. Are we not working a little bit at cross-purposes here?

Mr. **Burman**. Senator, the leases that you are referring to, in most cases, were negotiated or concluded, or at least commitments were entered into, prior to the initiation within the Department of State, at the legislative branch request, of a policy of reciprocity.

The initiation of that policy is also reflected in S. 854.

We can state to you that all further negotiations with any government seeking rights and benefits on Federal land in that center will undergo a very strict scrutiny from a point of view of reciprocity.

The particular government that you mentioned, Libya, is under review and we anticipate cancellation of the lease.

Senator **Mathias**. But you signed on the dotted line.

Mr. **Burman**. We have.

Senator **Mathias**. It is a contract.

Mr. **Burman**. Yes, it is a contract and it does represent certain difficult issues.

Senator **Mathias**. Full faith and credit of the Government of the United States. [Laughter.]

Mr. **Burman**. It is true except that, Senator, with the adoption of S. 854 we anticipate that our legal position will be substantially strengthened. While it certainly would be possible for any lessee government to seek judicial recourse that would be highly unusual in the course of diplomatic relations.

We might add that it is also highly unusual to have our missions in the capital of countries abroad subjected to substantial destruction. So, I think we need to balance different issues.

Senator **Mathias**. How many chanceries do you think, in your judgment, will ultimately locate in the International Center?

Mr. **Burman**. Approximately 20. There is some consideration for reconfiguration of some of the lots which might provide for an increase or decrease in that number.

It is difficult because we want to provide sufficient space so that we have not used up the land without satisfying the legitimate chancery needs of the governments.

And, at the same time, we want to maximize the number of chanceries on this valuable space.

But I would say approximately 20.

Senator **Mathias**. How many sites do you have still available?

Mr. **Burman**. We have approximately, as I understand it, five or six in the existing chancery section, all of which have governments interested in them. We hope to have up to nine spaces in addition to that in the expansion area in the northwest sector of the site.

Senator **Mathias**. That would be in addition to the area that Intelsat will relocate to; right?

Mr. **Burman**. Yes. I might add that within the Intelsat complex itself—a matter that was of significant importance to the Department of State—by requiring them to construct space in each phase in excess of their anticipated needs, we have also required them to make that space available first to the Department of State for chancery annex use.

We believe this will assist us to alleviate another significant problem to the Department of State and that is finding annex space, temporary additional space that chanceries need from time to time which represent difficult security questions.

Senator **Mathias**. I promise you this is my last question.

If there is all this press for chancery sites, why are you not looking for another chancery enclave?

Mr. **Burman**. Senator, the International Center bill contains a clause which permits us to utilize surplus proceeds, if any, for precisely that purpose.

Senator **Mathias**. I am aware of that, but I am asking: Are you looking for the land?

Mr. **Burman**. We have had discussions with some of the planning staff for the city and also the National Capital Planning Commission.

Our hope and expectation is to utilize those funds in a cooperative fashion with all three parties. As soon as we have passage of that bill, then we will find new areas in which we can locate chanceries so that the impact of this bill, if it is perceived to be an impact in the few areas that obviously we are pressing to have chanceries located in, will, with the passage of time, be reduced.

Senator **Mathias**. I am not asking you to locate on the map any area that you are looking at because that would spread panic through that neighborhood. [Laughter.]

I do not want to be responsible for that. But are you looking at any specific sites?

Mr. **Burman**. We have had initial discussions with representatives of city planning offices. There are areas we have been looking at which are scheduled for redevelopment.

The difficulty often is that our hope would be that we could have land in those areas centrally located and have it set aside for chancery use. The problem is that these are low density users.

Oftentimes you end up competing with the very high density, high commercially attractive users.

Senator **Mathias**. There is redevelopment land in the center city. I saw some of it today. It is a beautiful location.

Mr. **Burman**. Yes, and we hope that we can participate in some of that land.

Senator **Mathias**. Senator Eagleton?

Senator **Eagleton**. I have a couple of questions.

It is my understanding that prior to my entering the room, the State Department testified that the problem we have been discussing today began in 1978.

However, I bring to the attention of the witnesses hearings in December 1979. I chaired that hearing on Senate Concurrent Resolution 63, the resolution of disapproval on the so-called location of chanceries amendment passed by the District of Columbia Council.

In that hearing I had the distinct impression that the State Department accepted the Diplomatic Overlay Zone and supported the process by which it was adopted.

The State Department's testimony at that hearing in December 1979 imparted as follows:

The Federal plan adopted in 1977 did not give the State Department all it wanted. Far from it. But it was something we could live with in the effort to meet our international obligations.

With that as backdrop, I ask this. What has happened since December 1979 that causes the State Department to now seek congressional approval of section 206, a section which would override the local zoning process now in place?

Mr. BURMAN. Senator, the difficulties we face very briefly have been an increasing concern by not only the State Department but other agencies involved in foreign affairs and the national security of the United States of the difficulty in bringing to bear what they perceive to be important issues in the process that presently exists.

In discussing some of these issues with local officials involved, we were confronted with a very legitimate problem on their part. They have contended from time to time that they are neither obligated nor really properly in a place to assess the issues of concern to Federal agencies involved.

This has been a major problem. We have a series of problems with the diplomatic community which feels—and frankly we do not disagree with this—that they cannot even obtain a neutral consideration of significant cases under the existing regulations or areas as important to us as the Massachusetts Avenue area.

Senator EAGLETON. Give me a specific case or two as to where someone feels aggrieved since December 1979.

The reason I pick that date is that it represents the time the State Department was last here on this subject matter—a time when it said that although the situation was not everything it would have liked, it could live with it in an effort to meet the Department's international obligations.

Give me an illustration since December 1979, where the thing has been screwed up from your perspective.

Mr. BURMAN. We do not have many specific examples since December 1979, because a number of the more difficult cases involving governments who have expressed to us considerable concern as to the adequacy of security of their missions, are unwilling to proceed until we can at least give them assurances of a neutral posture by whatever decisional body is vested with that responsibility.

Our problem really is to balance the existing process and not to overweight it one way or the other. Obviously, we do not conceive this bill as doing that.

We would hope that this bill, however, would send a message of balance and not a negative message that we believe was sent prior to December 1979.

After all, members of local commissions certainly are aware and are responsive and have to be aware of the position of their executive branch and their legislative branch. Those messages were negative prior to December 1979.

Senator EAGLETON. It has been put in the record and I will not belabor the point. But I think it is noteworthy that, from 1979 to date, the following location changes, if that is the term to use, have been approved by the Board of Zoning Adjustment.

These are cases since the adoption of the Diplomatic District concept. The following have been approved: Saudia Arabia, Italy, Gambia, Venezuela, Indonesia, Korea, Singapore, the Philippines, France.

There are a couple pending—Chad and Cape Verde. There was one denial, which was Bangladesh filed October 12, 1978, and decided June 22, 1979.

So, there are at least 8 or 10 approvals and 1 disapproval and a couple pending.

At first blush, as I look at that, that is far from being a track record of intransigence or resistance, if you want to call it that, on behalf of the Board of Zoning Adjustment.

By a ratio of 8 or 10 to 1, the BZA granted the applications. There was one denial.

What is obstreperous in that record insofar as the Board of Zoning Adjustment is concerned?

Mr. BURMAN. Senator, while it may not be the forum to get into lengthy discussions on each of the individual cases, obviously we view this record very differently.

There were effectively three denials in the areas important to us in Embassy Row—including Iran, which has been excluded from your list.

Senator EAGLETON. It has special attributes.

Mr. BURMAN. But at the time of the denial it did not have those attributes and at the time the denial was made our relationship was in a very different posture. The State Department strongly urged approval of that particular application for reasons that we felt legitimate then and we feel legitimate now.

Senator EAGLETON. The zoning people disagree with you.

Mr. BURMAN. Of course. But we have to see it from our perspective.

I do not want to get into individual cases, but some are an application for a carport, for example. Most of them, since December 1979, are not significant applications. They are not major cases.

This is not a record that I think we would look at and say that everything is fine. Everything is not fine. Significant and important expansions or relocations are not going forward because there is not a belief, either in the diplomatic community or certainly in agencies like ours charged with these responsibilities, that we have a system that is neutral.

That is all that we are seeking.

Senator EAGLETON. I have one more question.

My question is this. At the present time, we have in the District of Columbia three major entities involved in zoning and location of chanceries.

We have the National Capital Planning Commission, the NCPC; we have the District of Columbia Zoning Commission, the DCZC; and we have the District of Columbia Board of Zoning Adjustments, the DCBZA.

And now the State Department wants a fourth to be called the Foreign Missions Commission, the FMC.

We have an administration that rails against bureaucracy—that wants to downsize the scope of Government and wants to abolish the Department of Energy and wants to abolish the Department of Education and virtually wants to abolish the Environmental Protection Agency and would like to abolish the Consumer Product

Safety Commission and would like to abolish the Federal Trade Commission and would like to abolish a whole host of others.

But in this instance, now that we have the NCPC and the DCZC and the BZA, they now want the FMC. [Laughter.]

How does that track with the overall purpose as announced by the Reagan administration, of which I take it you are still a part?

Mr. BURMAN. We are very much a part, Senator.

We actually see this as consonant with the efforts of the administration in that it will no longer involve, specifically the Zoning Commission or the Board of Zoning Adjustment, but it will substitute for those two a single commission which will contain some of the same people.

Senator EAGLETON. A separate budget and a separate staff and a separate director and a separate place in the sun.

Mr. BURMAN. In our discussion with city officials, our expectation is this, although I cannot speak for them in this. Existing staff would be utilized which are already doing this type of work, under a different set of regulations and for a somewhat different commission.

Senator EAGLETON. It would issue new regulations. Every commission has to issue new regulations. It will go in the Federal Register; right?

Mr. BURMAN. I presume; or the District Register.

Senator EAGLETON. I wonder about the whole process.

Thank you.

Senator RUDMAN [acting chairman]. Gentlemen, we thank you very much.

We will call next Harvey Pryor, U.S. Secret Service.

TESTIMONY OF HARVEY E. PRYOR, CHIEF, UNIFORMED DIVISION, U.S. SECRET SERVICE ACCOMPANIED BY ROBERT EVANS LURTY, DEPUTY CHIEF, FOREIGN MISSION BRANCH

Mr. PRYOR. Thank you, Mr. Chairman.

I have with me this morning Deputy Chief Robert Lurty who is Commander of the Foreign Missions Branch of the Secret Service, Uniformed Division.

The Secret Service is concerned about the possible impact S. 854, the Foreign Missions Act, may have as it relates to our protective responsibilities.

To better understand our role, it is necessary to examine how the Uniformed Division carries out its protective responsibilities in the diplomatic community.

The U.S. Secret Service Uniformed Division under the authority of title 3, U.S.C., section 202, is charged with the responsibility of protecting foreign diplomatic missions in the metropolitan area of the District of Columbia.

The Foreign Missions Branch of the Uniformed Division in its effort to protect these missions, provides security in the form of footbeats, fixed posts, cruiser patrols, and scooter patrols.

The Secret Service currently works closely with the Department of State to the extent that we are guided by their requests to protect particular locations.

However, the Department of State does not dictate the level at which the Secret Service will provide protection. Nor does the Department of State generally recommend when to terminate our protective services.

Those are Secret Service operational determinations which are based upon our experience and the intelligence at any given time. Our overall objective is to provide a level of protection commensurate with the need.

Cruiser and scooter patrols are employed as a method of preventing unexpected and spontaneous acts of violence against any legation located in a uniformed division jurisdiction.

Officers assigned to these patrols are trained to recognize and identify items of a suspicious nature, such as explosive devices and persons that act in a hostile or suspicious manner near or on an embassy location.

The Uniformed Division also uses explosive detection teams—canine—as patrol units. These teams patrol independently and conduct random sweeps of embassy locations in an effort to seek out and identify suspicious items, in addition to responding to specific threats.

Intelligence data is of paramount importance to the mission of the Uniformed Division in that it enables it to predict and anticipate future security problems involving a particular embassy or legation.

Quite often, the Uniformed Division is inundated with requests for fixed posts from the various locations within its jurisdiction. Due to manpower limitations, all of the requests cannot be honored.

As a result, intelligence and threat potential is used as criteria in determining which request warrants further consideration, and an eventual fixed post assignment.

Terrorism is of great concern to the Uniformed Division and is a potential problem to the success of its mission. Again, intelligence information is heavily relied upon in construction of a profile on known terrorist groups and potential groups of terriorists.

Intelligence information is also used to assist Uniformed Division personnel in recognizing known terrorists and conditions that could result in acts of terrorism.

Ideally, if all foreign governments were limited to specific geographical areas, we could better protect them, that is, a 10-square-block area within a city that included only the diplomatic locations.

This would not be a panacea, however, since several different governments within this designated area could have events—receptions, parties, and so forth—at the same time, thereby causing chaotic traffic jams and possibly compromising security efforts.

A compromise, then, would be to have most diplomatic premises located reasonably close to each other.

Because of the complex security-related considerations inherent in the geographical location of a foreign mission, it is the opinion of the Secret Service that it and other appropriate law enforcement authorities should be allowed to present their views to the proposed Office of Foreign Missions prior to locating or relocating a foreign mission.

Mr. Chairman, that concludes my prepared text. I want to thank you again for the opportunity to appear before this committee.

I will try to answer any questions the committee may have relative to the Uniformed Division.

Thank you.

Senator RUDMAN. Thank you very much.

Is there anything you want to add in terms of how you coordinate or do not coordinate with the State Department as far as security of these embassies is concerned?

Mr. PRYOR. The Uniformed Division, on a daily basis, through our Intelligence Liaison Office, coordinates the requests that come in for security protection. Through this cooperation we are able to assess the intelligence and carry out our responsibilities.

Senator RUDMAN. Did your division participate at all in the development of the District of Columbia zoning regulations that created this Diplomatic Overlay Zone?

Mr. PRYOR. No.

Senator RUDMAN. Were you consulted?

Mr. PRYOR. No.

Senator RUDMAN. Have you been consulted by the draftsmen of this legislation or by the people who are concerned with this particular bill?

Did they discuss at length with you how this would improve security for embassies? Have you been consulted?

Mr. PRYOR. Prior to the preparation of this legislation; no, we have not been involved.

Senator RUDMAN. I have heard a lot of testimony this morning from the previous witnesses from the State Department about national security interests. It seems to me when they talk about national security interests in terms of protection, that that is your job.

It seems to this committee that you really have not been consulted a great deal about this bill; have you?

Mr. PRYOR. We have not had any input up till now; no.

Senator RUDMAN. That is very interesting.

I appreciate your testimony. We thank you very much.

[Mr. Pryor's responses to written questions and an attachment follow:]

RESPONSES TO WRITTEN QUESTIONS

CURRENT PROTECTION RESPONSIBILITIES AND PROBLEMS

1. Describe the Division's protective responsibilities for chanceries.

The United States Secret Service Uniformed Division Foreign Missions Branch, as authorized by Title III, Section 202, U.S. Code, is charged with insuring adequate protection to all diplomatic missions in the Metropolitan/Washington, D.C., area, and in other areas as deemed appropriate. This protection is provided in the form of footbeats, fixed posts, scooter and cruiser patrols. Additional protection is afforded on a case-by-case basis when intelligence information is received from the United States Secret Service Intelligence Division indicating the necessity of further protective measures.

2. What are the greatest threats or problems the Division faces in protecting chanceries?

One of the greatest threats to the Uniformed Division's mission is the potential for an international terrorist act against one of our missions. The Secret Service relies heavily upon intelligence information to assist us in meeting our mission objectives.

As we all know, the restrictions placed on our intelligence gathering agencies sometimes results in less than adequate intelligence information. This lack of adequate intelligence information could hamper the Secret Service's reaction to any serious terrorist attack.

3. What is the ideal situation from the Division's point of view in terms of facilitating the protection of chanceries?

Obviously, the ideal situation from a security standpoint would be to have a totally secure environment whereby all access to and from these locations could be physically controlled to insure that only those persons who are authorized have access into the complex.

4. Does the Division have a map of each chancery location?

Yes, all locations are designated on a Foreign Missions Branch locator map.

What information does the Division maintain on chanceries for its protective responsibilities?

Specific facility maps of most of our missions, especially those of a sensitive or controversial nature, are maintained by the Uniformed Division in cooperation with the security personnel from the various missions. Specific security maps are incorporated in our Emergency Response Plan of diplomatic missions located in the Metropolitan/Washington, D.C., area. The Uniformed Division maintains all pertinent information concerning all the missions in the Metropolitan/Washington, D.C., area, i.e. ambassador names, employee names, emergency telephone numbers, security personnel, hours of operation, telephone numbers, alarm company numbers, building occupants, etc.

5. Are there any particular difficult chanceries to protect? Describe.

   Many of our embassy/chancery complexes are usually situated in complex, residential/commercial areas whereby visual observation is restricted, i.e. office buildings, large wooded areas, rowhouse complexes, congested traffic areas, and suburban locations.

6. How do you coordinate with the State Department concerning the protection of chanceries?

   The Uniformed Division coordinates on a daily basis with the State Department through our Intelligence Division on matters directly relating to foreign mission security.

7. Is there a particular problem with protecting chanceries located in office buildings?

   Yes.

   Describe current number of chanceries in multi-purpose office buildings.

   Size of chancery in terms of employees/floor space?

   The Uniformed Division presently affords protection to 68 chanceries that are located in multi-purpose office buildings. The size of the chanceries vary from a mere telephone answering service to several floors of the building. Our diplomatic information records indicate the number of personnel assigned to the mission, however, floor plans are only provided by missions who agree to cooperate with our information gathering procedures.

   Describe protection problems (if any) at chancery on top floor of National Trust for Historic Preservation Building at corner of Massachusetts Avenue and 18th Street.

   The Uniformed Division has established a liaison with this particular location to insure access on a 24-hour basis. Obviously, a 10th floor location restricts our response time to the location.

3.

ROLE IN DEVELOPMENT OF "FOREIGN MISSIONS" ELEMENT OF COMPREHENSIVE PLAN

1. Describe your Division's participation in the development of the "Foreign Missions and International Agencies" element of the comprehensive plan by the National Capital Planning Commission.

   The Uniformed Division received a request from the NCPC for review of the element.

   Were you asked to formally participate or comment on the element?

   On November 24, 1976, and again on February 4, 1977, Chief Drescher of the Uniformed Division responded to the NCPC's request for comments and recommendations.

   What was your position on the element? Provide any letters, memos, or testimony before NCPC for the record.

   In the letter from Chief Drescher dated November 24, 1976, the Uniformed Division stated its position: "Should serious consideration be given to establishing Foreign Missions facilities in areas not within the reasonable proximity to existent areas provided protective coverage by the Uniformed Division, then it is our hope that recommendations be made that several Foreign Missions desiring to relocate be informed of the feasibility of locating in the same general proximity. Thus, the alignment can be made in patrol areas to assure maximum coverage under the concepts currently being utilized. This will enable the Uniformed Division to continue to be a highly visible deterrent security force."

ROLE IN DEVELOPMENT OF "DIPLOMATIC" ZONE OF D.C. ZONING CODE

1. Describe your Division's participation in the development of the D.C. Zoning Regulations to create a mixed-use Diplomatic Overlay Zone.

   To the best of our knowledge and in checking with our records, the Uniformed Division did not participate in this element.

   What was your position on the Diplomatic Zone?

   To the best of our knowledge and in checking with our records, the Uniformed Division did not hold a position in this element.

4.

ROLE IN DEVELOPMENT OF THE INTERNATIONAL CENTER

1. Describe the Division's role in the planning and layout of the International Center at Connecticut Avenue and Van Ness Street.

To the best of our knowledge and in checking with our records, the Uniformed Division did not have a role in this element.

Were you consulted by NCPC and State Department on the lot sizes, layouts, building layouts?

To the best of our knowledge and in checking with our records, the Uniformed Division was not consulted in this element.

Were you consulted by NCPC or State Department on the proposed relocation of the Organization of American States to the site?

To the best of our knowledge and in checking with our records, the Uniformed Division was not consulted in this element.

What was your comment or position? Provide for the record.

To the best of our knowledge and in checking with our records, the Uniformed Division did not hold a position in this element.

Were you consulted by NCPC or State Department on the proposed relocation of Intelsat to the site?

On May 19, 1980, members of the Uniformed Division attended a meeting at the request of the State Department to discuss the status of the International Center and the proposed relocation of Intelsat.

What was your comment or position? Provide for the record.

During the meeting of May 19, 1980, Deputy Chief Robert G. Heltibridle suggested that the State Department contact the Office of Protective Operations, U.S. Secret Service, for advice from the Technical Planning and Development Division as well as the Technical Security Division for updated information regarding technical assistance.

5.

2. Were the Division's concerns met in the final plan and layout for the International Center?

The Uniformed Division has not had any further input into the final plans and layout of the center since our May 19, 1980, meeting with the State Department.

INTERNATIONAL CENTER PROTECTION RESPONSIBILITIES

1. How many of your personnel are assigned full-time to protection of chanceries at the International Center? Are there regular patrols? 24-hour surveillance?

Presently, the Uniformed Division has a fixed post and other regular patrols on a 24-hour basis assigned to the Israeli Chancery located in the center.

2. Have you encountered or do you anticipate problems with access and parking at the International Center for visitors, particularly at simultaneous evening functions?

Yes. The Uniformed Division does anticipate various parking problems associated with visitors coming and going to the various center missions.

Are you aware of how many chanceries will ultimately be located at the International Center?

The Uniformed Division has been informed that there will be approximately 23 chanceries located in the center.

ROLE IN INDIVIDUAL CHANCERY CASES TO COME BEFORE BOARD OF ZONING ADJUSTMENT

1. Describe your Division's participation in the current "special exception" process before the D.C. Board of Zoning Adjustment.

To the best of our knowledge and in checking with our records, the Uniformed Division did not participate in this element.

Do you regularly testify before the Board on proposed chancery locations, site, and building plans?

To the best of our knowledge and in checking with our records, the Uniformed Division does not regularly testify before the Board in this element.

How is your Division notified that a chancery proposes to locate in a residential neighborhood?

The State Department routinely notifies the Uniformed Division of any chancery relocations. The Uniformed Division itself has established a Mission Liaison Office which monitors movement within the diplomatic community.

Do you usually comment to either the State Department or the Board of Zoning Adjustment concerning your ability to protect such a chancery at the proposed location?

To the best of our knowledge and in checking with our records, the Uniformed Division does not comment to the State Department or the Board of Zoning Adjustment in this element.

In how many of the special exception chancery cases to come before the Board of Zoning Adjustment since adoption of the Diplomatic Overlay Zone has the Division:

a. Been notified in advance of the hearing and proposed location?

   To the best of our knowledge and in checking with our records, the Uniformed Division has not been notified in advance of any hearing or proposed location.

b. Commented to State or Board of Zoning Adjustment on its concerns over the location, site, or building plans?

   To the best of our knowledge and in checking with our records, the Uniformed Division has not commented to the State or Board of Zoning Adjustment on its concerns over the location, site, or building plans.

7.

IDEAL FOR OPTIONAL ROLE AND REPRESENTATION OF SECRET SERVICE

1. Does the Division believe it should play a larger role in the decision process concerning the location of chanceries? How?

   Yes. Based upon the Secret Service's protective responsibilities, it is our opinion that the Secret Service should be allowed to present its views prior to locating or relocating a foreign mission.*

   *We also feel that the Metropolitan Police Department, SOD, and D.C. Fire Department should be allowed to present their views prior to locating or relocating a foreign mission.

2. Should the Division be represented on the proposed "Foreign Missions Commission"?

   The Secret Service should have an opportunity to appear before the Office of Foreign Missions prior to any locating or relocating of any foreign missions in order to address their protective views.

CURRENT DIPLOMATIC MISSIONS CHARGED TO THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION WITHIN THE WASHINGTON, D.C./METROPOLITAN AREA

Maryland	Diplomatic Locations	Total =	29
	Embassy (Residence)		27
	Chancery		0
	Other*		2
Virginia	Diplomatic Locations	Total =	8
	Embassy (Residence)		5
	Chancery		0
	Other*		3
Washington, D.C.	Diplomatic Locations	Total =	381
	Embassy (Residence)		121
	Chancery		149
	Embassy/Chancery (Same Building)		15
	Embassy/Chancery and Other* (Same Building)		1
	Chancery and Other*		3
	Other*		92
Total			418

Diplomatic Property Located in Multi-Purpose Office Buildings

Maryland	2
Virginia	3
Washington, D.C.	63
Total	68

*Other includes military, information, finance, travel, cultural, economic, science and technology, business, atomic technology, and chancery annexes.

EXAMPLES OF CURRENT DIPLOMATIC MISSIONS WITHIN THE WASHINGTON, D.C./METROPOLITAN AREA

Diplomatic Locations	- Watergate Complex	-	Total = 10
600 New Hampshire Avenue		-	7
2600 Virginia Avenue		-	3
Diplomatic Location	- Van Ness Complex	-	Total = 7
4301 Connecticut Avenue		-	7
Diplomatic Location	- International Center	-	Total = 2 (Proposed)*= 23

*Original proposal called for twenty-three (23) locations to have been constructed. However, of the proposed twenty-three (23) locations, only two (2) are operational at the present time.

MARYLAND EMBASSY LOCATIONS

BAHAMAS - 7616 Roshdu Court, Chevy Chase, Maryland
BANGLADESH - #4 Highboro Court, Bethesda, Maryland
BELGUIM (Military Office) - 5454 Wisconsin Avenue, Suite 1005, Bethesda, MD
BENIN - 9901 Sorrell Avenue, Potomac, Maryland
BOTSWANA - 6332 Lenox Road, Bethesda, Maryland
CAPE VERDE - 6509 Kenhill Road, Bethesda, Maryland
C.C.N.A.A. (Business Office) - 5161 River Road, Bethesda, Maryland
CHILE (O.A.S.) - 4701 Willard Avenue, Suite 514, Chevy Chase, MD
EAST GERMANY - 7608 Roshdu Court, Chevy Chase, Maryland
ECUADOR (O.A.S.) - 5313 Sunset Lane, Kenwood, Maryland
GABON - 7318 Arrowood Road, Bethesda, Maryland
GAMBIA - 10808 Riverwood Drive, Potomac, Maryland
GUYANA - 6911 Bradley Boulevard, Bethesda, Maryland
HAITI (O.A.S.) - 6200 Highland Drive, Kenwood, Maryland
HONDURAS - 5312 Portsmouth Road, Bethesda, Maryland
HONDURAS (O.A.S.) - 14 Sunnymead Court, Potomac, Maryland
JAMAICA (O.A.S.) - 3103 Rolling Road, Chevy Chase, Maryland
JORDAN - 5810 Connecticut Avenue, Chevy Chase, Maryland
KENYA - 10201 Sorrell Avenue, Potomac, Maryland
LESOTHO - 7013 Loch Lomond Drive, Bethesda, Maryland
LIBYA (Temporary Residence) - 4810 Grantham Avenue, Chevy Chase, Maryland
MAURITIUS (Charge d'Affairs) - 7000 Marbury Road, Bethesda, Maryland
NICARAGUA - 5603 Jordon Road, Bethesda, Maryland
NIGERIA - 6705 Connecticut Avenue, Chevy Chase, Maryland
PERU (O.A.S.) - 5410 Goldsboro Road, Bethesda, Maryland
SIERRA LEONE - 10800 Tara Road, Potomac, Maryland
TANZANIA - #1 Highboro Court, Bethesda, Maryland
URUGUAY - 9001 Clewerwall Drive, Bethesda, Maryland
ZIMBABWE - 8229 Gainesborough Court-West, Bethesda, Maryland

TOTAL* - 29 Physical Locations in Maryland

*NOTE: If Haiti and Jamaica are counted double because ambassadors also head the O.A.S. Missions then the total would be 31.

Senator RUDMAN. We will now call Dr. Walter Lewis, Chairman of the District of Columbia Zoning Commission, and Mr. Charles R. Norris, Chairman, District of Columbia Board of Zoning Adjustment.

Mr. Lewis?

You may proceed.

TESTIMONY OF WALTER B. LEWIS, CHAIRMAN, DISTRICT OF COLUMBIA ZONING COMMISSION, ACCOMPANIED BY CHARLES R. NORRIS, CHAIRMAN OF THE BOARD OF ZONING ADJUSTMENT, AND STEVEN E. SHER, EXECUTIVE DIRECTOR OF THE ZONING SECRETARIAT

Mr. LEWIS. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am Dr. Walter B. Lewis, Chairman of the Zoning Commission of the District of Columbia.

Appearing with me this morning are Charles R. Norris, the Chairman of the Board of Zoning Adjustment, and Steven E. Sher, Executive Director of the Zoning Secretariat which serves as the staff for the Commission and Board.

We are here this morning to provide the committee with some background information on zoning in the District of Columbia and to present our views on certain proposed legislation affecting chanceries in the District of Columbia.

The Zoning Commission was created by act of Congress in 1920, to adopt a comprehensive set of zoning regulations and maps.

Under the Zoning Act—D.C. Code, section 5-412 and the following, 1981 edition—the Commission is authorized:

> To regulate the location, height, bulk, number of stories, and size of buildings and other structures, the percentage of lot occupancy which may be occupied, the size of yards, courts, and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities or other purposes.

The District of Columbia is different from most other local jurisdictions with respect to where the zoning authority is vested.

In most other municipalities, the local legislative authority, that is, the city council, board of supervisors, village board, and so forth, is also the zoning authority.

Reflecting the fact that the District of Columbia is the National Capital, and the Federal interest must be observed and protected, zoning in the District of Columbia is not the responsibility of the City Council, which is the local legislature, but is the responsibility of the Zoning Commission.

The Commision, since its creation, has been composed of both local and Federal members, reflecting the inherent need to balance and consider both the Federal and local interests.

At present, the Zoning Commission is composed of three residents of the District of Columiba, who are nominated by the Mayor subject to the advice and consent of the City Council, and two Federal officials, the Director of the National Park Service or his designee, and the Architect of the Capitol.

The Board of Zoning Adjustment was created by the Zoning Act of 1938. It, too, has a balance of Federal and local interests in its composition.

Three members of the Board are residents to the District of Columbia appointed by the Mayor; one is a member of the National Capital Planning Commission or its staff; and one is a member of the Zoning Commission or its staff.

The BZA is basically responsible for applying and granting variations from the regulations adopted by the Zoning Commission. The Board is typical in function to boards of appeal or adjustment found in most municipalities.

The present set of zoning regulations which govern development of private property in the District of Columbia was originally adopted in 1958. Those regulations established four general categories of districts: Residential or "R" districts; special purpose mixed use districts designated "SP"; commercial or "C" districts and industrial districts which are designated "C-M" or "M".

Within each general category, there are various individual districts, which vary as to the exact nature of the uses, height and bulk permitted.

For each individual district, the regulations specify what uses are to be permitted. Permitted uses fall into two categories: Those permitted as a matter-of-right and those permitted as special exceptions.

A use permitted as a matter-of-right is a use for which no special zoning review or action is required. Such a use may be instituted, and a permit therefore obtained, as long as the other area and bulk requirements of the zoning regulations are complied with and other applicable District codes are met.

A use which requires a special exception is one which is permitted only if each individual proposal for such a use is subjected to and approved by the BZA.

The Board is required to hold a public hearing on each application before it, and must judge those applications based on specific standards set forth in the regulations.

Special exceptions are required for uses which, while generally compatible and consistent with the character of the district, may have adverse effects for a variety of reasons if the individual circumstances surround each proposal are not considered and controlled.

In the zoning regulations adopted in 1958, a chancery was a permitted use in every zone district. I think I ought to insert here what we are talking about is a chancery and not an embassy, which is the residence of the ambassador.

In all residential districts, and new buildings in the SP district, BZA approval as a special exception was required. For existing buildings in the SP district and in all commercial and industrial districts, a chancery was permitted as a matter-of-right.

That regulatory schedule remained in effect until 1964, when Congress passed a law known as the Chancery Act, also commonly known as the Fulbright Act.

That law amended the Zoning Act, and effectively amended the zoning regulations, to prohibit the location of chanceries in any low-density residential district.

The law did allow chanceries in medium high and high density apartment zones:

> If the Board of Zoning Adjustment shall determine after a public hearing that the proposed use and the building in which the use is to be conducted are compatible with the present and proposed development of the neighborhood.

The Chancery Act effectively precluded chanceries from locating in more than 75 percent of the land area of the District that is subject to zoning.

In December 1973, the Congress passed the District of Columbia Self-Government and Governmental Reorganization Act, commonly known as the Home Rule Act.

Section 423 of the Home Rule Act established the Mayor as the central planning agency for the District of Columbia. The Mayor is:

> Responsible for the coordination of planning activities of the municipal government, and the preparation and implementation of the District's elements of the Comprehensive Plan for the National Capital.

Sections 203 and 423 of the Home Rule Act reserve to the National Capital Planning Commission the planning responsibility for Federal and international projects and developments in the District of Columbia.

Section 492 of the Home Rule Act authorizes the Zoning Commission to:

> Exercise all the powers and perform all the duties with respect to zoning in the District as provided by law.

Section 492 also requires that:

> Zoning Maps and Regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the National Capital.

In furtherance of the planning mandate assigned by the Home Rule Act, the National Capital Planning Commission and its staff prepared a Foreign Missions and International Agencies element of the Comprehensive Plan.

Work on that element took approximately 1½ years, and included involvement of the NCPC, its staff, the District government, the State Department and other Federal agencies, representatives of foreign missions and international agencies and citizens of the District.

In October 1977, the NCPC formally adopted the Foreign Missions and International Agencies element and transmitted it to the Zoning Commission.

The Planning Commission's resolution requested that the Zoning Commission carry out the plan element:

> Through the adoption of appropriate amendments to the Zoning Regulations necessary to make such Zoning Regulations not inconsistent with such element in accordance with Section 2 of the Zoning Act.

The Zoning Commission considered the plan element, proposed new regulations to implement that plan element, and conducted public hearings as required by law.

After approximately a year of consideration of all the issues raised, on September 14, 1978, by unanimous vote, the Zoning Commission adopted Orders No. 236 and 237.[1]

Those two orders created and mapped a Mixed Use Diplomatic District, and also amended other portions of the zoning regulations concerning the location of chanceries in the District of Columbia.

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[1] See p. 474.

A copy of the two Zoning Commission orders and the full Statement of Reasons[1] adopted by the Commission has been submitted to the subcommitee for the record.

I would ask that these be placed in the record at this time.

Senator **Rudman**. Without objection, so ordered.

Mr. **Lewis**. The full justification and basis for the actions taken by the Zoning Commission are set out in the Statement of Reasons, and the Commission chooses not to repeat in full those arguments here.

In summary, the Zoning Commission established the new Mixed Use Diplomatic District—"D"—to be mapped in combination with other districts, and provided that chanceries could be located in the "D" District after a careful review by the Board of Zoning Adjustment to assure compatibility with affected neighborhoods.

The same review was also provided for certain other districts where chanceries are permitted so as to avoid adverse impacts on neighborhoods.

In other districts, particularly higher density commercial districts, chanceries are now permitted as a matter of right. The set of changes enacted had the effect of permitting chanceries in certain areas mapped with the "D" overlay where chanceries had been prohibited since 1964, and also prohibiting chanceries in certain low density neighborhood commercial areas where chanceries had previously been permitted.

In recognition of the fact that the District of Columbia is the national capital, chanceries currently are treated differently in the zoning regulations from any other office type use.

A chancery is essentially an office use, even though it comprises the official diplomatic mission of a foreign government in the United States.

Office uses are not permitted at all in residential districts, except under very limited circumstances.

Recognizing that chanceries must be accommodated, the Commission remains committed to the proposition that, if chanceries are to be permitted in residential districts, or areas developed with large concentrations of residential uses, then a proposed chancery must be subject to a review to determine that the chancery is compatible with the neighborhood in which it is located and will not have any unmanageable or unacceptable adverse effects.

The Commission notes that the limitation on the location of chanceries in certain commercial districts was derived directly from the limitations of the NCPC Foreign Missions element.

The regulations adopted by the Commission were a compromise which attempted to strike a reasonable balance between various and competing goals and desires.

Inherent in the nature of a compromise is the proposition that no one interest or element achieved all of its aims.

However, the Commission believed at the time that it had achieved a solution that basically satisfied all interests.

The State Department, in testimony before the Subcommittee on Metropolitan Affairs of the Committee on the District of Columbia of the House of Representatives advised that it could live with the Federal plan, as implemented by the Zoning Comission.

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[1] See p. 389.

The NCPC, by resolution adopted June 11, 1981, has stated that "the proper method of implementation—of the plan element—is through the local zoning process."

The NCPC further found no problem in the operation of the District zoning process for providing for the location of foreign missions.

The Zoning Commission notes that since the adoption of the amended regulations in September 1978, neither the NCPC nor the State Department has formally advised the Commission that the present regulations are inadequate and neither has ever requested the Commission to consider amendments to those regulations.

Twelve cases involving chanceries and embassies have been filed before the Board of Zoning Adjustment since the regulations were amended in 1978.

A list with complete details on those cases is attached to our testimony and I would ask that those be placed in the record at this time.

Senator RUDMAN. Without objection, that will be inserted in the record at this point.

[The material referred to follows:]

Chancery/Embassy Cases
Before the Board of Zoning Adjustment
Since Adoption of the Diplomatic District

CASE NO.	COUNTRY	FILED	DECIDED	DISPOSITION
12822	Bangladesh	10/12/78	6/22/79	Denied
12826	Saudi Arabia	10/24/78	11/9/79	Granted
13137	Gambia	11/26/79	4/21/80	Granted
13166	Italy	12/18/79	5/27/80	Granted
13313	Venezuela	6/4/80	10/6/80	Granted
13361	Indonesia	8/8/80	2/5/81	Granted
13393	Korea	10/3/80		Pending; hearing delayed at request of applicant
13459	Singapore	2/3/81	7/6/81	Granted
13517	Philippines	4/28/81	7/27/81	Granted
13532	France	5/29/81	10/15/81	Granted
13642	Cape Verde	9/9/81		Approved at meeting on 1/6/82; order expected by end of 1/
13360	Chad	9/21/81		Pending; to be considered on 1/27/82

Mr. LEWIS. Of the 12 cases, 9 have been decided by final written order of the Board. Of those nine, eight applications were granted and only one was denied.

The large majority of the cases were processed by the Board in 4 to 5 months. One case, involving the Royal Kingdom of Saudi Arabia, was approved but took slightly over 1 year to reach that result.

The time required to dispose of that application was extended by a number of unusual factors, including agreement by Saudi Arabia to a request from citizens for a postponement of public hearings and the necessity for the Board to personally inspect the property.

The decision of the Board in that case was also appealed to the District of Columbia Court of Appeals by various individual citizens and organizations.

The suit before the Court of Appeals was dismissed when the government agreed not to use the property as a chancery. This was not the result of BZA action.

Of the three cases where written orders have not yet been entered, one has not been set for a hearing at the request of the Government of Korea.

The application of Cape Verde was granted by the Board at its meeting held on January 6, 1982 with the written order to be issued within a few days.

The third, the application of the Government of Chad, was the subject of a public hearing in November 1981, and is to be considered by the Board for a decision on Wednesday, January 27, 1982.

The Commission remains of the opinion that the actions taken in September 1978 were fully appropriate at that time. Nothing has occurred since then to cause the Commission to change its opinion.

The Commission is of the opinion that its actions were totally proper and completely within its authority under the law.

Neither the Zoning Commission nor the Board of Zoning Adjustment has adopted any official position on the bill known as S. 854, the Foreign Missions Act.

The act has a number of different parts, most of which are keyed around the necessity to enforce reciprocity in the treatment of foreign missions here as related to the treatment of missions of the United States in foreign countries.

It is the consensus view of the members of the Commission and the Board that such an objective is highly desirable and there is no objection to most of the provisions of the act.

There is support for the proposal to create an Office of Foreign Missions in the State Department which would deal directly with the foreign missions. This office could advise foreign missions of how and where to locate their chanceries regardless of the regulatory mechanism which controls the location.

This office could well facilitate whatever process is in existence as far as the missions and the Government is concerned.

Section 206 of the act would remove from the jurisdiction of the Zoning Commission and the Board of Zoning Adjustment the authority to regulate the location of chanceries.

That authority would be reassigned to a new commission called the Foreign Missions Commission. The Foreign Missions Commission would be composed of the five members of the Zoning Commission plus the Secretary of the Defense and the Chairman of NCPC or their alternates.

The members of the Commission and Board are generally opposed to the transfer of authority and the creation of the new Commission.

I believe that no convincing reasons have been put forward to support this proposal. The existing process seems to function effectively.

Decisions are made with reasonable dispatch in most cases, requests for expedited hearings and decisions are usually granted, and in the vast majority of cases, foreign governments have been granted approval to do what they have requested.

Furthermore, the new Commission will be charged to go back over the same ground already covered by the National Capital Planning Commission and the Zoning Commission and redecide those issues for which a compromise solution has already been achieved.

I would add that one of the more serious implications of the proposal is the change from contested case procedures to rulemaking procedures.

Under rulemaking, no public hearings are required. I have always been committed to the proposition that citizens should have the greatest access possible to their government under all circumstances.

I believe it would be a step backward not to provide for public hearings on issues that directly affect citizens in their neighborhoods.

I would also note that the imposition of a 6-month time limit for deciding certain matters is arbitrary and may be counterproductive.

As stated earlier, the majority of cases have been decided by the Board in that timeframe. However, others have taken longer, and it is impossible to predict that all cases can always be decided in any specified timeframe.

I further believe that section 206 as presently written is seriously flawed in a number of respects. I will not take the time to go over those issues line by line, but the Commission and its staff are prepared to consult with you and the staff of your subcommittee on those items if you should so desire.

I hope that the Congress will decide not to adopt section 206; however, if the section is to be included, I hope you will give serious consideration to rewriting it so as to address the technical problems now included.

We appreciate the opportunity to present this statement to the subcommittee and are ready to try to answer any questions that you may have.

Thank you.

Senator RUDMAN. Thank you very much. We appreciate your being here.

I have two questions. Be brief, if you will, because we are running up against some time constraints this morning.

I believe I understood you to say, but let me confirm this, that you have not been contacted by the State Department at any time in the last several years citing their unhappiness with the present Diplomatic District Overlay; is that right?

Mr. LEWIS. So far as the Zoning Commission is concerned, I would answer, "No." Mr. Norris will answer so far as the BZA is concerned.

Mr. NORRIS. Not to my knowledge. I am sure Mr. Sher could respond.

Mr. SHER. Senator Rudman, the Commission and the Board directly have not been contacted by the State Department or the Planning Commission.

As director of the full-time staff, I have been in several meetings with representatives of the State Department as this bill has come before the Congress and so forth but neither the Commission nor the Board, particularly the Commission, have been asked to take any formal actions by either the State Department or the Planning Commission.

Senator RUDMAN. I am sure you were contacted once this bill was drafted. But my question is: Was there dissatisfaction expressed along the way since 1978 with what you have been doing?

Mr. SHER. Not addressed to the Commission or the Board.

Senator RUDMAN. I see.

Second—and this could be a long answer, Dr. Lewis—but I would ask you to summarize it for me.

There has been a lot of discussion about the *Bangladesh* case. There are some indications in some places that maybe that case is the real reason we are even looking at this today. That is, that might have been something where there was great dissatisfaction by the State Department.

You were there. Briefly, tell us why the case was decided as it was.

Mr. LEWIS. I was not there. I was not on the BZA at that time. I will ask Mr. Sher to answer that.

Mr. SHER. In the first place, we can submit for the record the full written order of the Board which sets forth the findings of fact and the conclusions of law that the Board reached in deciding that application.[1]

In the second place, to briefly summarize, the regulations require the Board to make a number of specific findings on any application for chancery use in the diplomatic district.

In reviewing that application, the Board was unable to determine that the application met the requirements of the regulations.

The site did not meet certain of the very specific requirements and parking could not be provided on site. The yard requirements in certain instances were not met. The Board went line-by-line through the regulations and through the determinations that it is required to make.

They were unable to conclude, after the full assessment of the entire application, that we had an application that met those regulations.

We have an order that runs some 20 pages long that sets that out in great detail, but that basically was where it was.

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[1] See p. 616.

Senator RUDMAN. I take it that your law as such is similar to those around the country. If you have certain prerequisites or criteria that you have to meet and, if, in fact, you make an affirmative decision even though you have not met those criteria, then an appellant against your board to overturn your decision would probably have some success in the appellate court.

Mr. SHER. The Court of Appeals of the District of Columbia has been very vigorous in holding the Board to that standard, especially for special exception applications or applications in the nature of a special exception.

If an applicant meets the standards set forth in the regulations, he is entitled to that relief. The court of appeals has had no hesitation to tell us we are wrong and that the decision is reversed.

Senator RUDMAN. There is one other point.

The Federal interest here is represented by the NCPC member. I believe that member also voted against this particular application; right?

Mr. SHER. The decision of the Board in the *Bangladesh* case was 5 to 0 and unanimous in denying the application.

Senator RUDMAN. We want to thank you all for appearing this morning. We appreciate your testimony.

We will now call Daniel Mandelker, Washington University School of Law, St. Louis, Mo.

Senator EAGLETON. Professor Mandelker is a distinguished professor of law at a fine law school. I ask unanimous consent that the biographical sketch of the professor be placed in the record following his prepared statement.

Senator RUDMAN. Without objection, so ordered.

Mr. Mandelker, we are glad to have you here this morning.

Please proceed as you see fit.

TESTIMONY OF DANIEL R. MANDELKER, STAMPER PROFESSOR OF LAW, WASHINGTON UNIVERSITY IN ST. LOUIS, MO.

Mr. MANDELKER. Thank you, Mr. Chairman.

I would like to present a summary of what I have and perhaps later, if you have additional questions, I will be happy to answer them.

I would ask that my prepared statement be inserted in the record in its entirety.

Senator RUDMAN. Without objection, so ordered.

Mr. MANDELKER. My name is Daniel R. Mandelker, Stamper Professor of Law at Washington University in St. Louis.

I am a specialist in land use and zoning law and have published several books and law school textbooks on this subject.

In addition, I have consulted with municipalities throughout the country on the legal problems arising in the enactment of zoning ordinances and the administration of zoning ordinances within cities.

I might add that I have also traveled abroad and have studied and written on some of the land use systems in some of the countries which are reported on by the State Department in their survey on the handling of chancery locations elsewhere.

My general comment is that, except for the centralized monarchies, I find no difference in the way those countries handle the chancery problem and the way the District of Columbia handles the same problem.

I am here to testify on section 206 of S. 854, the Foreign Missions Act of 1982. You have had that section described for you this morning, and you have also had described for you the procedures available in the District of Columbia to handle the location of foreign mission chanceries in zoning districts throughout the city.

I will not repeat that testimony, but I think it is important to the subcommittee to understand that there is nothing in these procedures which is in any way unusual, unfair, or unreasonable.

There was some implication in the testimony from State Department representatives that that might have been the case. I certainly do not want to be unfair to them, but the State Department representatives this morning did not put these procedures in a national perspective. By failing to do so, I must take it from them that they believe that the procedures used here in the District of Columbia are somehow unusual and unfair.

And, as I said, nothing could be further from the truth.

The technical basis for dealing with chanceries as special exceptions under the zoning ordinance has been described. It might be helpful to back off from these technicalities and look for a moment at the zoning process and what it tries to do.

Zoning regulations have been well-established in this country and in the District of Columbia since the middle of the 1920's.

The basic purpose and intent of zoning regulations is to provide a land use control system which separates incompatible uses.

One way of doing this is by establishing residential areas which are protected from intrusive, undesirable, and incompatible development.

The very establishment of residential areas which are protected from intrusive development makes them attractive to developers who do not belong there but who would like to locate there.

This is a Senate hearing on foreign chanceries. But, if I substituted "industrial use" or "commercial use" for foreign chanceries, and if I changed the location of this hearing to any city hall around the country, we would hear the same arguments and the same complaints.

Every use which is not allowed in a residential district because it is incompatible in that district wishes to have the zoning regulations changed so it can locate there.

The correct and proper method for dealing with these problems is the special exception process which has been explained to you—a special exception is sometimes called a conditional use. The words may appear unusual. They are the best we in the field can do to describe what is simply a process for reviewing applications for a development on a case-by-case basis, and providing protection for residential districts by only allowing those uses which are compatible in these districts.

In my judgment, the different techniques, procedures zoning designations and plans used by the District of Columbia are, from a national perspective, more than generous in the allocation of land for chancery uses throughout the District of Columbia.

Moreover, administrative procedures now being used by the District of Columbia—the so-called contested case procedures—provide an open and fair hearing and are viewed by zoning specialists as a considerable advance on previously existing procedures used in the zoning process.

It would be a shame if these procedures were modified, changed, and not allowed in what I see to be a very important zoning decision.

So, in summary, there are three elements to the process used in the District of Columbia for the approval of foreign chancery uses which I view as standard, customary, and proper.

These are:

One, that the special exception use is not allowed "as of right" in residential districts, but requires the approval of the Board of Zoning Adjustment;

Two, that this authority is delegated to a single agency, the Board of Zoning Adjustment; and,

Three, that the criteria used to approve foreign chanceries as a special exception use require these uses to be compatible with the residential areas in which they wish to locate.

The proposal in section 206 would change and modify every one of those elements. It would set up a separate agency within the District with what I see as the authority to override established District of Columbia zoning agencies on what is a very important land use question.

In my testimony, in addition to criticizing the policy and purpose of section 206, I also make a number of technical criticisms of that section. Some of these criticisms have already been made.

One of my students who looked at section 206 called it the Zoning Lawyers Full Employment Act of 1982. While that statement may be a little extreme, in my judgment it will take a series of cases in the local District of Columbia Court of Appeals to establish the meaning and intent of this section.

Far from providing some kind of certainty in the process by which foreign chanceries can be approved within the District of Columbia, this section, as presently written, will create considerable uncertainty in that process and will require extensive litigation to define even its most elementary terms.

For example, section 206 seems to state that foreign chanceries are allowable as a matter of right. But then it also states that the Foreign Missions Commission shall establish a method through which additional areas for foreign chanceries shall be located.

Section 206 does not specify how additional areas shall be "located," although it does state that the special exception process shall not be used.

It would take litigation to establish exactly what is meant by that term.

The Foreign Missions Commission is to make what is called a "determination." That is the technical word used in section 206.

The term "determination" is one which I have never seen before in zoning ordinances or in the zoning process. It is unclear just exactly what that term means.

I should point out that the meaning of that term is critical to this entire section because the zoning ordinance covers a number of elements, including land uses, densities and what we call site-development regulations, such as off-street parking.

By failing to define the term "determination," section 206 fails to indicate in even the most elementary manner what this Commission is to do.

There are a number of other technical criticisms which I have, but the rest of them are directed primarily to the statutory criteria.

The criteria in section 206 are the basis on which the determinations, whatever they are, are to be appealed to the local court of appeals.

It was pointed out by State Department representatives that an appeal would be allowed. That is true, but the appeal is to be allowed and determined only under the criteria provided in section 206.

As I read the criteria, which are very confusing and would create, as I said, a field day for zoning lawyers, they introduce nonzoning factors in the judgment to be made, both by the Foreign Missions Commission and by the courts on review.

In particular, paragraph (i) states that the primary purpose of section 206 is to fulfill the obligation of this country to provide adequate and secure facilities for foreign missions.

That may be true and that may be correct, but that is not a zoning purpose.

As I read this section, and without going into detail on the criteria which are in section 206, they provide for a nonzoning override by the Commission on all of the zoning agencies of the District.

As has been said before, and I would agree, no case has been made for so massive and extensive an intrusion on the zoning and planning function of the District of Columbia.

I would oppose section 206 as presently written.

Thank you.

Senator **Rudman**. Thank you.

We appreciate your testimony because of your reputation in the field and the publications you have authored.

I have not personally had an opportunity to review the zoning codes and ordinances and case law of representative countries throughout what I would call the Western democracies, but in reviewing the material furnished by the State Department, it appears to me, at least—and that was at a quick reading—that those countries which have systems of government similar to ours have systems, if you will, of protection for private property rights not dissimilar to those contained in the present law.

The system proposed in the bill and advocated by the State Department would tend, I should think, to aline these zoning laws in the District of Columbia more with nations with which we have very little in common in terms of rights of private property.

I would like to ask you very fairly to tell me whether or not that is a proper conclusion. That is the conclusion I have drawn thus far.

Mr. **Mandelker**. Your conclusion is correct, Senator. As I stated, I have traveled abroad on study grants over the years to study the land-use planning and zoning systems of foreign countries.

With the exception, as I said when I began my testimony, of centralized monarchies which would have a very different system of zoning because they have a very different political system, other nations are simply applying their standard land-use control practices and procedures to chancery determinations.

I am most familiar with the British system because I have studied it closely. The report on Great Britain was not quite accurate, but it is quite clear that the standard land development control procedures used in Britain are used for chancery locations.

The same thing is true of the Dutch and Swiss. I am familiar with the Dutch and Swiss systems.

Senator RUDMAN. I want to thank you very much for coming here today to testify before the subcommittee. Your testimony will prove quite helpful to us.

[Mr. Mandelker's prepared statement and biographical information follows:]

PREPARED STATEMENT OF DANIEL R. MANDELKER

My name is Daniel R. Mandelker. I am Stamper Professor of Law at Washingtom University in St. Louis, Missouri. I have specialized in land use and zoning law, and have published several books and law school textbooks on this subject. In addition, I have been a consultant to municipalities througout the country on the legal problems arising in the adoption and administration of zoning ordinances.

I am here to testify on Section 206 of S. 854, the Foreign Missions Act of 1982. This section establishes a new Foreign Missions Commission authorized to designate locations for foreign mission chanceries within the District of Columbia. I believe that Section 206 should not be enacted. It would create a new administrative agency and new zoning procedures which would be detrimental to land use planning and zoning in the District of Columbia.

BACKGROUND

The locations of foreign chanceries is governed by the Foreign Missions element of the District of Columbia comprehensive plan, zoning regulations and special exception procedures in the District zoning ordinance, and the Chancery Act of 1964. Section 206 of S. 854 apparently is a response to problems arising from the location of chanceries in low density residential districts. Chanceries are not permitted "as of right" in these districts, and may not locate there unless they are granted a special exception by the Board of Zoning Adjustment. This procedure is the usual zoning procedure used to control the location of potentially incompatible uses in low density residential zoning districts. The procedure appears to have worked well in the District of Columbia.

An explanation of the zoning and zoning administration process is necessary to understand the procedures adopted for chanceries which seek locations in low density residential areas. Zoning is a well-established regulatory control which governs land use and land use locations. A major purpose of zoning is the separation of incompatible land uses. The zoning ordinance implements this purpose by dividing the city into zoning districts. Only mutually compatible uses are allowed "as of right" within each zoning district.

A number of land uses which are allowed "as of right" in some zoning districts can also be allowed in less intensive zoning districts if they are compatible with uses allowed in those districts. Because these "marginal" land uses may present compatibility problems when they locate in less intensive districts, they require review on a case-by-case basis by a local zoning agency. The special exception process is the zoning procedure commonly used to review and approve these special exception uses. Because these uses must be approved by the zoning agency, they are not allowable "as of right."

In the District of Columbia, the Board of Zoning Adjustment reviews and must approve applications for chanceries as special exception uses in low density residential districts. The Board will approve a chancery as a special exception use only if it is compatible with the low density zoning district in which it seeks to locate. This review process is consistent with the purposes of zoning. It maintains the integrity of low density residential areas by allowing chanceries as special exception uses only when they are compatible in these areas. If chanceries could locate in residential areas where they are not compatible with surrounding low density residential development, they would create traffic congestion and other undesirable impacts on residential neighborhoods.

The special exception process used in the District of Columbia for foreign mission chanceries in low density residential districts thus has three elements which are common to all zoning ordinances:

1. The special exception use is not allowed "as of right," but requires the approval of the Board of Zoning Adjustment.
2. The authority to approve the special exception use is delegated to a single agency, the Board of Zoning Adjustment.
3. The criteria adopted to approve special exception uses require these uses to be compatible with the low density residential areas in which they wish to locate.

Section 206 makes substantial and undesirable changes in this zoning process. It would allow foreign mission chanceries "as of right" anywhere in the District. It would usurp the authority of the Board of Adjustment by delegating the authority to designate locations for chanceries to an indepenent agency. It would not base the location of chanceries of the land use compatibility principle. International reciprocity does not require this change in zoning procedures. A review by the Library of Congress indicates that other nations apply similar land use control procedures to the location of foreign chanceries.

THE SECTION 206 PROPOSAL

Section 206 creates a new and independent agency, the Foreign Missions Commission, which has the sole responsibility for the location of chanceries in the District of Columbia. This Commission would consist of the five members of the District Zoning Commission and two other members, including the Secretary of Defense or his alternate. This proposal fragments the zoning process in the District by creating a new and independent Commission with authority to regulate land use. The proposal also bypasses the Board of Adjustment, the agency responsible for special exception uses, by excluding the members of the Board of Adjustment while including the members of the District Zoning Commission on the proposed Foreign Missions Commission. The Zoning Commission has legislative, not administrative, zoning responsibilities.

Section 206 is apparently intended as an amendment of the Foreign Missions Element in the District of Columbia comprehensive plan. Paragraph (f)(1) states that "[a]ll elements of the comprehensive plan relating to the location of foreign missions" shall be based on the "criteria" included in the section. The Foreign Missions Element is not presently based on these criteria, and would presumably require amendment. No procedures for the amendment of the comprehensive plan are specified in Section 206, and it is not clear whether the amendment of the Plan is the responsibility of the Foreign Missions Commission.

Section 206 delegates to the Foreign Missions Commission the authority to designate "areas" within which chanceries may locate. The term "areas" is not used in zoning ordinances and in the zoning process, and the meaning of this term is not clear.

Section 206 authorizes the Foreign Missions Commission to "establish areas within which chanceries may be located as a matter of right." ¶ (c)(1). This paragraph allows the Commission to override zoning regulations adopted by the District Zoning Commission. Although "as of right" designations by the Foreign Missions Commission may be appealed to a court, they would have to be upheld if they were consistent with the criteria provided in Section 206. These criteria do not authorize a reversal of a Foreign Mission Commission determination if it is inconsistent with the District's zoning and planning policies. Note also that Section 206 places no limit on the number of areas where the Foreign Missions Commission can disregard District zoning regulations and authorize chanceries "as of right."

Section 206 also allows the Foreign Missions Commission to "establish additional areas within which chanceries may be located." ¶ (c)(2). The meaning of this paragraph is unclear. The process through which the "additional areas" will be established is not specified. Neither does Section 206 indicate whether the Foreign Missions Commission, or some other zoning agency, has the responsibility to determine how chanceries "may be located" in these "additional" areas. Because chanceries may not locate in the "additional" areas as of right, some process for determining these "additional" locations is necessary.

The last sentence of paragraph (c) states that "[l]imitations on chancery uses shall not exceed those applicable to any other nonresidential use in the areas so established." The meaning of this sentence is not clear, and may actually preclude the location of chanceries in low density residential districts. Chanceries are not allowed in these districts. Paragraph (c) appears to preserve this prohibition as a "limitation . . . applicable to any other nonresidential use."

Paragraph (c) may also be intended as a repeal of the Chancery Act of 1964. That Act does not allow chanceries "as of right" in low density residential districts. Paragraph (c) would authorized the Foreign Missions Commission to designate areas where chanceries can locate "as of right" anywhere in the District, including low density residential districts.

Paragraph (c), and other provisions in Section 206, authorize the Foreign Missions Commission to take action through what are called "determinations." This term is not defined in the Act, and its meaning is not clear, although the term apparently includes the replacement or expanision of a chancery, as well as its location. See ¶ (i).

Neither does Section 206 indicate what a "determination" may include. Zoning district regulations regulate land uses and densitites, and also impose site development standards, such as off-street parking requirements. It is not clear whether a "determination" by the Foreign Missions Commission can include all of these regulations and standards. Because paragraph (c) refers to the "location" of chanceries, it may be interpreted to authorize "determinations" on location, but not on density or site development requirements, such as off-street parking.

Some insight on the meaning of a "determination" is provided by paragraph (d), which states that "[a]ny determination . . . shall be considered rulemaking" under the Administrative Procedure Act of the District of Columbia. This paragraph indicates that a "determination" is a rule, but the subject matter to be covered by "determination" rules is still left unclear.

Specifying a rule-making process for determinations also is a departure from the administrative procedure followed when the District Board of Zoning Adjustment reviews special exception uses. The Board must follow the contested case procedure of the Administative Procedure Act when it reviews special exception uses. This procedure provides for a full hearing in which all interested parties can participate and testify. The rule-making procedure does not provide for an adjudicative hearing of this type. Rule-making procedures do not provide an open hearing in which all interested parties can present their views on a foreign mission chancery location.

Section 206 contains several "criteria" which govern "determinations" by the Foreign Missions Commission. These criteria are objectionable for several reasons. The principal objection is that they introduce non-zoning factors into a decision which should be based solely on zoning criteria. A case for an override on zoning decision by District of Columbia zoning agencies based on non-zoning factors might be made if the District zoning process did not accommodate chancery uses. That case has not been made. At most, a revision of the special exception criteria applicable to foreign mission chanceries might be undertaken to determine whether they are fully sensitive to the land use problems which chanceries present. Section 206 goes much further by proposing criteria for chancery "determinations" which are unrelated to zoning problems.

The dominance of non-zoning factors in determinations by the Foreign Missions Commission is made clear by a statement of policy which appears in ¶ (i) but not in the criteria list. The policy states that: Any such determination by the Foreign Missions Commission shall ensure the fulfillment of the obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions and shall take into account special security requirements as determined by the Secretary [of State].

The effect of the statutory policy calling for "the provision of adequate and secure facilities for foreign missions" is made additionally confusing by its reappearance as one of the criteria on which the Foreign Missions Commission is to make its determinations. See criterion (1). Is this policy only one of several criteria to be considered by the Commission, or does its restatement in paragraph (i) indicate that it is the dominant criterion in the Commission's decision-making process?

The statutory policy and criterion (1) call for "the provision of adequate facilities." The meaning of the term "adequate" is not clear. "Adequacy" usually refers to the type and size of building or accommodation, not its location. A "determination" by the Foreign Mission Commission on the location of a chancery cannot make that chancery "adequate," as this term is usually understood.

A related criterion, see criterion (8), apparently includes the intent of criterion (1) as well as other matters related to the national interest in providing "adequate" locations for foreign mission chanceries. Criterion (8) directs the Foreign Missions Commission to consider "[t]he Federal interest, as determined by the Secretary [of

State]. The term "federal interest" is not defined. Criterion (8) should also be read along with criterion (7), which requires the Foreign Missions Commission to consider "[t]he municipal interest, as determined by the Mayor of the District of Columbia."

The Foreign Missions Element of the District of Columbia comprehensive plan has presumably considered and accommodated the federal and municipal "interest" in the location of chanceries. This element of the plan is considered by the Board of Zoning Adjustment when it reviews special exception applications for chanceries. Statutory criteria requiring a federal cabinet officer and the mayor of the District of Columbia to formulate federal and local interests on a case-by-case basis for "determinations" by the Foreign Missions Commission are unnecessary.

Criterion (20 requires the Foreign Missions Commission to consider whether the chancery would be in a commercial or mixed-use area, "determined on the basis of existing or planned uses." The phrase "planned uses" is unclear. A use can be considered "planned" if it is contemplated by an owner of land, but any "planned" use must conform to the zoning ordinance unless the ordinance is changed or the landowner obtains a special exception or variance. This criterion does not indicate whether the Commission may consider a "planned" use even though it does not comply with the zoning ordinance.

Criterion (3) provides an override on District of Columbia historic preservation regulations by requiring only "substantial compliance" with these regulations. This intrusion on the District's historic preservation program could impair efforts by the District government to ensure the preservation of historic structures. Note that paragraph (i) also overrides the District building code by requiring only substantial compliance with its provisions.

Criterion (4) authorizes consideration of the "adequacy of off-street or other parking." This criterion further confuses the scope of a "determination" by the Foreign Mission Commission, because it contains an implication that the Commission may override off-street parking requirements in the District zoning ordinance.

Although decisions by the Foreign Missions Commission may be appealed in a court action, paragraph (k) grants standing to appeal only to the United States. This provision may restrict appeals by other parties if it is intended as an exclusive grant of standing to appeal Commission determinations.

CONCLUSION

Section 206 of the Foreign Missions Act of 1982 creates an independent commission authorized to make determinations for the location of foreign mission chanceries. These determinations are not based on the usual zoning criteria, and can override the District of Columbia's comprehensive plan and zoning regulations.

No case has been made for so substantial intrusion on the District's self-governing planning and zoning powers. Adequate provision for the location and review of foreign chancery locations can be made within the present framework of the District's planning and zoning system.

PROF. DANIEL R. MANDELKER BIOGRAPHICAL INFORMATION

(FOR TFE INTRODUCTION)

Name: Daniel Robert Mandelker—Age: 56.

Title: Howard A. Stamper Professor of Law, Washington School of Law, Washington University, St. Louis.

Education: B.A., 1947, Univ. of Wisconsin; LL.B., 1949, Yale; J.S.D., 1956, Yale; Phi Beta Kappa, Order of the Coif.

Professional Background: Asst. Prof. of Law, Drake University, 1949–51 Attorney, Housing & Home Finance Agency, Wash., D.C. 1952–53; Asst. & Assoc. Prof. of Law, Indiana Univ., 1953–62; Prof. of Law, Washington School of Law, 1963 to present.

Publications: Green Belts and Urban Growth: English Town and Country Planning in Action; Controlling Planned Residential Developments; Managing Our Urban Environment-Cases, Text and Problems; Case Studies in Land Planning and Development; The Zoning Dilemma: A legal Strategy for Urban Change; Street Graphics; Housing in America: Problems and Perspectives; Housing Subsidies in the United States and England; New Developments in Land and Environmental Controls; Environmental and Land Controls Legislation; State and Local Government in a Federal System; Planning and Control of Land Development

As the recognized zoning expert in the legal academic community, Prof. Mandelker has also been: Walter E. Meyer research professor of law, Columbia University, 1972-72; Ford Foundation Law Faculty fellow, London, England, 1959-60; Consultant to the Hawaiian Department of Planning and Economic Development, 1972-78; Member of Advisory Committee on Housing and Urban Growth, American Bar Association; Consultant to the Housing Subcommittee, Banking and Currency Committee, U.S. House of Representatives 1970-71; Consultant, United Nations Centre for Housing, Building and Planning, 1972-73; Member, National Academy of Sciences, 1967-68.

Senator RUDMAN. Our final witness this morning is John Lawrence Hargrove, whom I understand is here representing several citizen groups.

Please tell us your name and address and whom you represent. Then we will receive any statement you would like to make. We are moving close to a deadline. But please go ahead.

TESTIMONY OF JOHN LAWRENCE HARGROVE, APPEARING ON BEHALF OF THE CITIZENS PLANNING COALITION OF THE DISTRICT OF COLUMBIA AND THE AD HOC COMMITTEE ON THE FOREIGN MISSIONS BILL

Mr. HARGROVE. Thank you, Mr. Chairman.

I am John Lawrence Hargrove of 1925 Biltmore Street, Washington. I am representing a number of citizen groups, the specific identity of which appears in my prepared statement.

In the interest of time I would like to submit my prepared statement and would like to present a brief summary of those remarks and make remarks on one or two things said this morning.

Senator RUDMAN. Without objection, your statement will be included in the record following your presentation.

Mr. HARGROVE. At the outset let me say that, as between the two bills that have been discussed in the hearing this morning, we are opposed to the adoption of S. 854 which was reported out of the Senate Committee on Foreign Relations. We are in favor of the adoption of S. 1818 introduced by yourself and your colleagues on this subcommittee.

None of us denies the existence of important and to some extent special and legitimate interests on the part of foreign governments with respect to the location of their foreign mission offices. They are entitled to have those offices physically protectable, to pleasant surroundings and reasonable proximity to the centers of government, and to other reasonable amenities.

I think it is important to note that not every demand of the foreign government is a legitimate interest and in determining what is a legitimate interest we are entitled, as a government, to take into account our own international legal obligations and rights as well as those of foreign governments accredited here. It is important to note that foreign governments are obligated fundamentally to respect the laws and regulations of the receiving state, and, in this case, the Federal laws of the United States and the locally applicable laws of the District of Columbia.

They are not entitled, as a matter of international legal obligation or right, to seek or to obtain any sort of special legal exemption from the generally applicable rules. It is worth noting that a great deal of the problem over the years has been created by the unfortunate expectation created by the policy of the Department of State in the minds of representatives of foreign governments, that this was not the case, and, that they were entitled, with respect to land use regulation, to seek and to obtain some sort of special treatment not generally available to other comparable uses.

In any event, the question, Mr. Chairman, that must be addressed in evaluating the proposal that is now before us for changing the present land-use regulation system with respect to location of foreign government offices, is just that which you yourself, sir, put to the Department of State witnesses earlier.

That is: Is there any real reason to believe that the proposed new arrangements, which represent further concessions to foreign government offices with respect to location and otherwise—is there a real reason to think that these will meet the legitimate interests of foreign governments better than those which are presently in place?

To the citizens of this District, this is not an idle question, because there are very real interests on the part of this community as a whole and on the part of the individual citizens of it which they are being asked to sacrifice. We are familiar with those sacrifices, which are often difficult and in some cases, in our judgment, egregiously objectionable. They involve erosion of neighborhoods and neighborhood amenities and the depletion of the housing supply of this District, further dimunition of the already restricted rights of self-government; and loss of rights of due process in participation in proceedings that may adversely affect us in our homes and neighborhoods.

For these reasons it is only reasonable to place the burden of justification of these proposals on their proponents. I submit that this is a burden which must be discharged in terms of practical consequences and results. It is not enough to do so by vague invocations of national security, by insisting on Federal participation for its own sake without reference to actual experience, by conclusionary dismissal of the attitudes and practices of local officials as obstructive without reference to actual cases, and by references to unspecified foreign governments which apparently are too timorous and cowed by the proceedings of the Board of Zoning Adjustment to speak their interests publically.

Our submission is that that burden of proof simply has not been met, and it seems to me that the hearing this morning confirms that conclusion.

We would point to the following factors in arriving at this conclusion.

In the first place, as those who are better qualified than I have already indicated, the present system with respect to the regulation and the location of foreign government office buildings is already a liberal one. It goes well beyond what foreign governments are entitled to expect in international law. Certainly, as a result of the 1978 amendments, it goes well beyond what they enjoyed previously.

Second, the system, as the record indicates, has thus far been overwhelmingly in favor of foreign governments in its actual practice. Moreover, if it is still regarded by the Department of State or other interested parties as inadequate in some detail, then there is a readily available amendment process, which in fact the Department of State has not sought to invoke, as the testimony this morning has indicated.

Third, there has been no real relationship demonstrated between the new proposed arrangements and any of the legitimate interests to which we have been referred to as needing protection by these new arrangements. In particular, there has been no demonstrated relationship between the interests of foreign government offices in protectability against terrorist incidents or other incidents threatening their security, and their location in low-density residential neighborhoods. It is that, after all, which the proposal is about insofar as changes in the availability of land in this district under the new proposals is concerned. I think, Mr. Chairman, that the testimony of the representative of the Uniformed Division of the Secret Service this morning would tend to confirm that conclusion.

Fourth, there has been no need demonstrated in the practice of other governments with respect to the location of offices for the kinds of changes that are intended to result from these new proposals, that is to say, opening up new low-density residential neighborhoods in the city to foreign government office locations. That is clear from the practice of governments in this city, where chanceries are located in areas of many different configurations. It is quite clear from the practice of governments in New York City, where chanceries or the comparable missions to the United Nations, housing the office facilities of representatives to the United Nations, are frequently located in areas of commercial and residential use of the highest density.

Perhaps most tellingly, Mr. Chairman, there is no demonstrated need in the practice, or in the previously stated position, of the U.S. Government. This is true as regards the location of our own missions abroad which, in my own experience, are by no means uniformly located in low-density residential neighborhoods. It is certainly true of the management by the U.S. Government, and specifically by the Department of State, of our host-country relations in New York. Finally, Mr. Chairman, it is not demonstrated in the position that has been taken in the past on the very arrangements that the Department of State now seeks to replace, where, as a number of witnesses have indicated, the Department of State has found these arrangements acceptable.

Let me refer, finally, Mr. Chairman, to the aspect of the matter having to do specifically with the rights of political participation and of due process of the citizens of the District of Columbia.

For the reasons I have indicated, we strongly feel that the burden of justifying changes in the present sytem simply has not been met. Therefore, we find all the more objectionable the suggestion that the need is so pressing for such a change, and that the citizens and officials of the District are so incapable of addressing it responsibly, as to justify removing one of their prerogatives of self-government and handing it over to a Federal commission.

The same can be said of the intention in S. 854 to suppress the right of due process of citizens whose interests may be affected by determinations of the proposed Foreign Missions Commission. This provision is justified in the report of the Senate Committee on Foreign Relations as "intended to assure that unreasonable burdens are not placed on chancery applicants and that such applicants are not subjected to a process inconsistent with the conduct of official relations between nations."

These are doubtless worthwhile objectives. We suggest, however, that they cannot possibly justify procedures by which American citizens may have interests in their dwelling places affected by the decisions of a body of unelected officials without right of participation or recourse. Such procedures are deeply inconsistent with the values and traditions of this country, and they are peculiarly inappropriate for the conduct of relations with foreign governments on our territory.

Mr. Chairman, I have limited this summary to the issue relating to the location of foreign government office buildings. Our prepared statement indicates that there are at least three other important problems which this legislation addresses. In some of these respects, in our view, the legislation, needs, and in one respect badly needs improvement. I will not take the time of those assembled here this morning to detail those needs orally.

I thank you very much.

Senator RUDMAN. Thank you very much.

I take it there is quite a different perspective on the part of the citizens you represent concerning locating chanceries in neighborhoods vis-a-vis embassies.

Mr. HARGROVE. That is quite right.

There is, to my knowledge, nor has there ever been any objection to the location of the residences of ambassadors or the staff of foreign governments or international organizations in residential areas. Quite the contrary.

Senator RUDMAN. We appreciate your being here and giving us the viewpoint of people who do live here. We are anxious to review your testimony.

We thank you very much.

[Mr. Hargrove's prepared statement follows:]

STATEMENT OF JOHN LAWRENCE HARGROVE*

ON BEHALF OF THE

CITIZENS PLANNING COALITION OF THE DISTRICT OF COLUMBIA

AND THE

AD HOC COMMITTEE

ON THE

FOREIGN MISSIONS BILL

BEFORE THE

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA,

COMMITTEE ON GOVERNMENTAL AFFAIRS,

ON THE

FOREIGN MISSIONS ACT (S. 854)

JANUARY 25, 1982

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* Director of Studies, American Society of International Law; interim Director of Legal Studies, John Hopkins School of Advanced International Studies; formerly Legal Adviser to the United States Mission to the United Nations (affiliations provided for purposes of identification only).

INTRODUCTION

As between the two bills under consideration, we are opposed to S. 854, reported out of the Committee on Foreign Relations, and support S. 1818, introduced by members of this Subcommittee. I shall explain why.

What is proposed, in S. 854 as well as in S. 1818, would be a significant step in the development of United States law concerning our relations as host-country with foreign diplomatic missions. In the past we have suggested that any such proposal be assessed in light of at least four distinct kinds of problems intrinsic to the management of these relations:

--ensuring reciprocity vis-a-vis our own missions abroad;

--providing services to foreign missions;

--ensuring compliance by foreign missions with their own obligations here;

--determining the rules governing the location, use and character of foreign mission property.

DETERMINING THE RULES GOVERNING THE LOCATION, USE AND CHARACTER OF FOREIGN MISSION PROPERTY

The principal reason for our position on these bills lies in the main difference between them: namely, their respective approaches to the last of the four problems just mentioned. In summary, S. 854 would discard a regulatory arrangement which has roots in local land use practice and law long ante-dating Home Rule, and which has been responsibly administered and is working satisfactorily. That arrangement already grants broad special

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*Resolutions urging that there be no change in the existing regulatory approach have been adopted by the Adams Morgan Advisory Neighborhood Commission; The Committee of 100 on the Federal City; the Citizens Planning Coalition of the District of Columbia; the Citizens Association of Georgetown; the Cleveland Park Citizens Association; the Dupont Circle Citizens Association; the Foggy Bottom and West End Advisory Neighborhood Commission; the Kalorama Citizens Association; and the Sheridan-Kalorama Neighborhood Council and Advisory Neighborhood Commission.

concessions to foreign missions. It is fully consistent with our international obligations and the rather specific interests expressed by the Department of State on behalf of foreign missions themselves--and indeed already goes far beyond what international law entitles them to expect. It is readily capable of amendment should a need be demonstrated, and it respects the framework of limited self-government that the Congress erected in 1974 for the residents of the District of Columbia.

S. 1818 would leave this arrangement intact.

S. 854, by contrast, having dismantled it, would substitute a system which would create a risk of even greater encroachment by foreign government office buildings into residential neighborhoods; eliminate one of the already severely curtailed prerogatives of self-government enjoyed by citizens of the District and turn it over to an essentially Federal commission; and apparently deny to individual citizens, whose interests may be affected by decisions of this body, the rights of fair process in protection of those interests.

Should land-use regulation in Washington single out foreign government offices for special favor? If so, is what they need greater leeway in locating where they wish?

It is worthwhile recalling that this is an issue about office buildings--the structures where the bureaucracies of business establishments work. The issue is whether, in the District of Columbia alone, one class of office buildings--those used for the conduct of the business of foreign governments--should be singled out for special concessions in the form of greater legal leeway to locate where they wish. The concessions are sought as against other kinds of offices (which ordinarily are restricted to locating in commercial districts), and as against residential areas (which in the present case are asked to absorb the costs of those special concessions).

This is a fair question. We are all aware that there are important needs and interests connected with diplomatic offices. They need to be capable of physical protection. They need to be reasonably close to government centers. They need to meet a certain standard of dignity and attractiveness, with reasonable assurance of harmonious relationships with neighboring establishments. Diplomatic missions should be able to acquire and operate office facilities with a tolerable minimum of bureaucratic red tape imposed by host-country authorities. These needs and interests are not unique to diplomatic missions, of course, but may be especially pressing in their case--although in fairness the same might be said of certain kinds of non-governmental establishments, such as a major multinational corporation.

In any event, what must first be determined is whether the further special arrangements now being proposed could reasonably be expected to meet these needs any more effectively than the arrangements already in place.

It seems reasonable to place the burden of justifying such new arrangements on their proponents, including the Department of State. This is particularly so when one considers the situation in that other world diplomatic center located on U.S. territory--New York City. The Department of State also manages host-country relations in New York, with a group of governments probably surpassing in number those having missions in Washington, and the basic assumption there is simply that foreign mission offices, like other offices, are expected to comply with the local zoning laws applicable to everybody else.[1]

We submit that the burden of justifying any further special concessions has not been met, and in fact cannot be, for the reasons which follow.

The present regulations already grant broad special concessions to foreign mission offices, and are readily capable of amendment should the need arise.

It is important to remember that the issue is not simply concessions, but of further concessions. Foreign mission offices in the District of Columbia already enjoy special legal concessions in respect of location, and have done so since 1964, and those concessions were substantially broadened in 1978, over considerable protest on the part of local citizens.[2] What is proposed now, in S. 854, is still further special treatment, including establishing a special essentially Federal body to write special zoning rules exclusively for foreign mission offices.

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[1] New York does have a "Special United Nations Development District" adjacent to the U.N. headquarters in mid-town Manhattan. It is essentially a development-oriented overlay district, superimposed on an underlying commercial district where both commercial and residential uses are allowed. One of its several purposes is to provide for foreign mission office (and some residential) development, along with accompanying facilities, such as hotels, a bus terminal, and the like. While New York City is of course not the national capital, the establishment and operation of this special district obviously involves the Federal interest, not only because of the general responsibilities of the United States as host country but also because of the adjacency of the United States Mission to the United Nations--itself an 11-story single-occupant government office building. It is noteworthy that, nevertheless, the establishment and operation of this District, like other such districts in New York, are the responsibility of the planning, zoning and other appropriate organs of the municipal government, with all the attendant requirements for review and special permitting before municipal governmental authorities. Foreign government office buildings are not confined to this special district, however. They are allowed to locate in areas where other offices are allowed under the New York City zoning regulations, and are subject to the same rules as other office users.

Unfortunately, in reading the report of the Committee on Foreign Relations on S. 854, one can hardly recognize, from the language of that report, the regulatory arrangement which is now in place. The report merely dismisses it in conclusionary terms as an impediment to the discharge of the United States' international obligations, and in general unconscionably restrictive of and discriminatory against foreign missions, whereas in fact the present arrangement is already quite liberal. There are certain anomalies, but any such problems lie with the details of the plan and the zoning regulations, not the structure for producing them, and can be readily addressed without dismantling the whole system and starting from scratch: namely, the N.C.P.C. can be asked to take a further look at its plan, hold hearings, and modify the plan. There is no record of such a request by the Department of State, although citizens associations and advisory neighborhood commissions have formally requested the N.C.P.C. to reconsider its plan. A fresh look might lead to substantially new arrangements, including, perhaps, the provision of additional enclave property.

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[2] That arrangement involves a plan and related regulations adopted after several years of hearings by the National Capital Planning Commission and the District of Columbia Zoning Commission. The zoning regulations include a special Diplomatic (D) overlay zone. The main impact of the 1978 plan and regulations can be simply described: First, so far from restricting foreign missions, they opened up to foreign mission office uses--in accordance with the State Department demand--low-density, residentially zoned areas previously off-limits to them; second, they reaffirmed that Foreign Missions can locate in almost all of the areas where they or other offices had previously been able to locate. The Report and the bill itself seems to overlook the essential fact that foreign missions, subject only to a limited Board of Zoning Adjustment review, are now permitted to put their offices where a private business establishment could not locate its office under any circumstances: residential zones of the city which are covered by the "D" overlay zone. Foreign government offices are restricted, perhaps unfortunately, from certain low-and medium-density commercial zones (and required to go through a Board of Zoning Adjustment process within the overlay if they are these underlying zones). They are treated in this manner apparently because the N.C.P.C. plan so restricted them.

The Department of State, for its part, told the Congress as recently as 1979 that it could live with the present arrangement, and its confidence appears to have been well-placed. As the Minority Views appearing in the Report on S. 854 indicate, the great majority of cases since 1978 in which chancery proposals have required some sort of review have been decided favorably to the foreign government involved. As to those which have not, I am aware of no allegation by anyone that the reviewing body has been arbitrary, capricious, or irresponsible. Such allegations would be surprising in any event, since the government organs involved embody many years of experience, having pre-existed Home Rule by many years.

Finally, it should be pointed out that the Department of State itself may well have an interest in certain circumstances in treating foreign mission office buildings more restrictively than would be the case for other kinds of offices. That could be accomplished by requiring the approval of the Secretary of State for new or expanded location of a foreign government office. Either of the two bills in question could be amended to this effect.

The present arrangements are fully compatible with the international legal obligations of the United States, as well as the international rights and the practical needs of the missions themselves.

Our international obligations as receiving State, in respect of the location of foreign mission facilities, are important but limited. Article 21 of the Vienna Convention requires the receiving state either to "facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accomodation in some other way". It is clear that the United States is not obligated to place foreign missions in a specially favored legal position in respect of the acquisition of mission premises, and indeed could, if it wished, discriminate against foreign missions by forbidding the ownership of such premises by foreign governments. So far from being entitled to demand any such special treatment (beyond the privileges and immunities that they enjoy as diplomats), diplomatic representatives are obligated by the convention "to respect the laws and regulations of the receiving state" (Article 41), including certainly laws and regulations relating to acquiring and using structures.

This suggests that there is a considerable element of self-inflicted injury in the position that the State Department has taken on this problem for many years. For there is no reason in the basic law of the matter why a foreign mission should be led to expect to be able to construct or operate its office building in an area where in fact is is not allowed by local law. The exact contrary is the case. To the extent that, in supporting the strongly expressed preferences of certain missions for doing so, the Department has been merely following the course of least resistance in an effort to be accomodating, it has unnecessarily turned what should be a smaller problem into a larger one, continuously exacerbating relations with private neighbors in the bargain. Its protocol officers would have been better advised throughout the years to stand on the international obligation of the foreign mission to observe local law--essentially the approach taken in New York.

It is asserted, however, that the special problems of diplomatic offices require special exceptions to the location rules applicable to everyone else, to permit even further location in residential neighborhoods. In connection with S. 854 the principal reason advanced seems to be the need for physical security of the mission. We submit, however, that, on the present record, the case has not been made that there is a necessary connection between the physical security of a mission and its location in a low-density residential neighborhood.

Certainly no clear conviction to this effect is evident in the actual practice of missions here--where a number are located in buildings of various configurations in commercially-zoned areas. The same is true of the actual practice of missions in New York, many of which are located in high-density areas, and many of these in large multiple-occupancy high-rise office or mixed-use buildings. Indeed no such conviction is clearly evident in the practice of the Department of State itself. I understand that the State Department was in agreement with a proposal made by the National Capital Planning Commission to the Zoning Commission that special inducements in the form of bonuses be offered to foreign missions to locate in downtown areas to be set aside for high-density hotel, commercial and residential use. Certainly our own diplomatic office buildings abroad are not uniformly located in low-density residential areas, though I am not in a position to speak exhaustively on this point. It may be worth noting that an expert panel convened by my own organization conducted a study for the Department of State on the legal aspects of international terrorism, published in 1978, which dealt at length with the problems of protection of diplomatic premises and personnel. The suggestion that these problems are importantly connected with the land-use and density patterns of areas adjacent to the mission premisses did not, to my knowledge, arise in the course of the study, or figure in its conclusions.

Accordingly, it is all the more important to address explicitly a troubling policy issue which is implicit in S. 854 which we have thus far not heard discussed. Deciding on the location of foreign mission offices may necessarily entail allocating to neighboring establishments, whatever their character, certain real if not precisely measurable risks of involvement in terrorist incidents and possible injury from such incidents. On what basis does one decide how to allocate these risks? The inherent difficulties of such a problem give fresh impetus to consideration of an enclave approach, as at least minimizing the likelihood of personal and property damage to the general public, while also providing an alternative to increased pressure on residential districts.

S. 854 would needlessly enlarge the risk of further office-use encroachment into the residential areas of the District, adversely affect its housing supply, diminish the rights of self government of District citizens, and deprive them of fair process in protecting their interests in their homes and neighborhoods.

From the Report on S. 854 and the language of section 206, the intent and effect of the bill seem clearly to include increasing the possibilities for encroachment by foreign mission offices into residential neighborhoods. (For example, Section 206 (c) would seem to require that chancery uses be placed on a par not with other comparable *office* uses, but with any other *non-residential* use (such as schools and churches) that may be already permitted in residential neighborhoods. Similarly, Section 206 (e) (2) might permit allowing chanceries in any area in which or adjacent to which even one non-residential use in fact exists.)

The threat to residential neighobrhoods is not limited to loss of amenities by individual homeowners as a result of increased noise, congestion, and erosion of the base of neighborhood services. There is also involved a substantial interest of the District of Columbia as a whole in the maintenance of its housing supply, already under severe strain, since with the growth in size of diplomatic establishments the acquisition and conversion of large multi-unit residential buildings may become an increasingly attractive option for foreign missions.

For the reasons already stated, we submit that no case for enlarging these encroachments has been made. There has been no showing that doing so would in fact contribute to meeting the security needs or other legitimate special interests of foreign missions. Certainly there has been no reasoned showing that the elaborate new system proposed for this purpose would have any more beneficial results than the one already in place and satisfactorily working.

This being the case we find all the more objectionable the suggestion that the need is so pressing, and the citizens and officials of the District so incapable of addressing it responsibly, as to justify removing one of their prerogatives of self-government and handing it over to an essentially Federal commission. The same can be said of the apparent intention in S. 854 (sections 206(d) and 206(h)) to suppress the right to due process of citizens whose interests are affected by determinations of the proposed Foreign Missions Commission. This provision is justified in the Report as "intended to assure that unreasonable burdens are not placed on chancery applicants, and that such applicants are not subjected to a process inconsistent with the conduct of official relations between nations." These are doubtless worthwhile objectives. We suggest, however, that they do not justify procedures by which American citizens may have interests in their dwelling places affected by the decisions of a body of unelected officials, without right of participation or recourse. Such procedures are deeply inconsistent with the values and traditions of this country, and are peculiarly inappropriate for the conduct of relations with foreign governments on our territory.

ENSURING RECIPROCITY

Turn now to the other three host-country problems mentioned at the outset.

The first of these--ensuring reciprocity--is the main target of both bills. In this respect they are a welcome and long overdue move, for which the case has already been well stated: our own government needs to be enabled (though not necessarily required) to grant or withhold benefits to or from a foreign state's mission here on the basis of a rule of reciprocity, where that state is withholding benefits from our own missions abroad to which they are lawfully and reasonably entitled.

An important caveat is in order, however. The cardinal guidelines governing our policy toward the machinery of diplomatic relations must be a scrupulous respect on our part for the international rules, laid down principally in the Vienna Convention on Diplomatic Relations, and uncompromising insistence on such respect from countries in which we have diplomatic missions. It is quite appropriate to withhold benefits from a mission here, even to the point of falling below the minimum standard specified in the Treaty, where that mission's government has accorded such treatment to our mission abroad. For in such a case we may regard our own legal obligations as suspended, and indeed the Convention itself (in Article 47) would entitle us to reciprocate, in respect of a particular provision of the Convention, against a mere "restrictive application" of the Convention against our own mission abroad.

Unfortunately, the language of section 204 of both bills, however, goes far beyond the requirements of reciprocity, and authorizes the Secretary of State, even in the absence of a violation or unreasonably restrictive application of the Convention to our mission, to restrict or withhold benefits anytime the Secretary determines that it is necessary "to protect the interests of the United States".

This provision seems to me clearly to authorize, even if it does not require, action contrary to our own international legal obligations. This is particularly true since as a general rule the Convention requires equal treatment of states and permits discriminating against a state only in respect of a particular provision that the state has itself applied in a restrictive fashion (Article 47). The section invites the use of our government's control over the effective working of the machinery of diplomacy in our territory as a sort of weapon to achieve an open-ended range of other, unconnected foreign policy objectives, without regard to our own legal obligations. It says, in effect, to the Secretary of State: "If you think you can promote some U.S.

interest--whether or not it has to do with treatment of our diplomatic missions abroad--by making life hard on diplomats of a particular country accredited to Washington, you are authorized to use the powers in this bill to do so." But this is precisely the kind of conduct that the international legal regime on diplomatic relations exists in order to prevent. We have recently been subject to that kind of conduct, carried to the most egregious extreme. We invoked that treaty to our considerable political advantage, and the United States should be the last country to do anything to undermine its integrity. The offending language should be stricken.[3] [The present bills' position is not that reflected in the Diplomatic Relations Act of 1978, which incorporated the privileges and immunities of the Vienna Convention into U.S. law and permits less favorable (or even more favorable) treatment only on the basis of reciprocity.]

PROVIDING ROUTINE SERVICES TO FOREIGN MISSIONS

In setting up an arrangement by which reciprocity may be effectively administered, the legislation also addresses a further task: facilitating the delivery of various services and benefits to foreign missions in this country, with the objective of placing this formidable undertaking on a businesslike basis. This is also a step in the right direction. Foreign mission establishments are, collectively, a significant part of the business of this capital city and of New York City. It should prove useful to recognize this fact by placing the responsibility of the Executive Branch in this regard in a more nearly autonomous, separate unit of the Executive bureaucracy, with the full legal authority to equip itself with the kind of technical staff that may be necessary to the task.

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[3] In section 204 (b), the words "or otherwise", and "(2) to protect the interests of the United States".

ENSURING COMPLIANCE BY FOREIGN MISSIONS WITH THEIR OWN OBLIGATIONS IN THE UNITED STATES

While the preambles to both bills mention the policy objective of requiring observance of foreign missions of their "corresponding obligations in accordance with international law", in fact, the arrangements set up by the legislation seem to be directed only toward those obligations of foreign governments that have to do with their treatment of our missions abroad.

The principal international legal obligation of a mission here is to observe the laws and regulations of the United States (Article 41, Vienna Convention), except to the very important but nevertheless limited extent that they are specially exempted by reason of the privileges and immunities they enjoy as diplomatic mission. Even those exemptions are for the most part exemptions from legal process--from the usual techniques of enforcement. They are, by and large, not exemptions from the positive rules of conduct themselves. This is true whether the rules concern operating a motor vehicle, respecting the person and property of others, or (of particular relevance here) all the various matters dealt with in codes and regulations affecting the operation of any substantial business establishment in an urban setting--construction standards;

health, safety, public space, and occupancy requirements; historic preservation; and the like.

The record of foreign missions in this regard has not always been exemplary (I cannot speak of our own record abroad). In fairness to them, however, a good part of the blame may lie in the existing compliance system. Because of the inviolability of dimplomatic premisses and the general immunity of missions from legal process, responsible officials outside the Department of State, not to mention aggrieved private individuals, are essentially powerless to obtain compliance without the active cooperation and involvement of the Department of State. The Department, however, has an understandable but unfortunate conflict of interest which has tended to render it ineffectual as an enforcement agency, and indeed the Department on occasion shows up as a public advocate for a special exception in favor of a foreign mission to the existing rules. The present bills explicitly recognize this built-in weakness, and seek to deal with it, by setting up a more nearly autonomous unit. What they should do is take the next logical step of giving the Secretary, and the new OFM, an expiicit mandate to facilitate the efforts of responsible Federal, State or local officials to ensure compliance with relevant laws and regulations in this country. We are pleased to see that the amended version of S. 854 now takes a modest step in this direction, in Section 206 (j). It is also commendable that the amended section 206 of S. 854 has strengthened its reference to historic preservation, by requiring "substantial compliance with District and Federal laws: in certain cases. We see no reason, however, why the requirement should not be simply "compliance" in all cases. While we favor deletion of section 206 altogether, we would assume that, should it be enacted, the Foreign Missions Commission would have the power under this section to impose such a more stringent standard. Historic structures are vulnerable even under normal conditions, but even more so in the event they are occupied by a foreign government. It remains to be seen what the response of a newly created Foreign Missions Commission would be in the event of an attempted fait accompli by a foreign government occupant of an historic structure.

Senator **RUDMAN**. There will be additional statements submitted for the hearing record. There is a statement from Hon. Stewart B. McKinney. There is a statement by the Greater Washington Board of Trade, and a statement by the League of Women Voters of the District of Columbia.

Without objection these statements will be included in the hearing record.

There being no further testimony scheduled before the subcommittee, the subcommittee stands adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned subject to the call of the Chair.]

APPENDIX

ADDITIONAL STATEMENTS

NINETY-SEVENTH CONGRESS

RONALD V. DELLUMS, CALIF., CHAIRMAN

WALTER E. FAUNTROY, DELEGATE, DISTRICT OF COLUMBIA
ROMANO L. MAZZOLI, KY.
FORTNEY H. (PETE) STARK, CALIF.
GEORGE (MICKEY) LELAND, TEX.
WILLIAM H. GRAY III, PA.
MICHAEL D. BARNES, MD.
MERVYN M. DYMALLY, CALIF.

STEWART B. MC KINNEY, CONN.
STANFORD E. (STAN) PARRIS, VA.
THOMAS J. BLILEY, JR., VA.
MARJORIE S. HOLT, MD.

EDWARD C. SYLVESTER, JR., STAFF DIRECTOR
[illegible], MINORITY STAFF DIRECTOR

TELEPHONE: 225-4457

U.S. House of Representatives
Committee on the District of Columbia
[illegible]
Room 1310, Longworth House Office Building
Washington, D.C. 20515

January 20, 1982

Hon. Charles McC. Mathias, Jr.
Chairman
Subcommittee on Governmental Efficiency
and the District of Columbia
United States Senate
Room 6222, Dirksen Senate Office Building
Washington, D.C. 20510

Dear ~~Senator Mathias~~ Mac:

I have been informed of your upcoming hearings on S. 854, the Foreign Missions Act, but my schedule will not permit an appearance to offer testimony. I would therefore like to explain my position on the issue of location of embassies and chanceries in the District of Columbia through this letter, which I ask be made a part of your hearing record.

As you are aware, the House of Representatives addressed the content of S. 854 as part of H.R. 3518, the State Department Authorization Act for Fiscal Year 1982 and 1983. A portion of that House bill dealt with foreign missions, and since the location of such installations in the District of Columbia falls under the jurisdiction of the Committee on the District of Columbia, a joint referral was made. Our Committee held hearings on June 4, 1981, and issued a report which recommended deleting the portion of H.R. 3518 dealing with foreign missions.

I do not intend to explain the various specific provisions of the proposed legislation since your Committee will certainly have an opportunity to adequately receive testimony of that nature. I wish rather to discuss the broader point of the necessity for any changes in the existing procedures.

The situation regarding location of embassies and chanceries in the District of Columbia parallels, in my opinion, the overall issue of complete home rule for the city. I am fully cognizant of the importance of the Federal interest in dealing with international and diplomatic matters, and I feel this Federal interest must override local concerns, be it in the District of Columbia or elsewhere. At the same time, I recognize the need for the local government to have final say in what is purely a local matter; in this case zoning decisions. The dilemma is the same with regard to true home rule for the city. There are clearly matters in which the Federal interest must prevail, and other matters in which the local interest should be primary or even exclusive. In order to address this dilemma with regard to home rule, the Congress struck a balance between competing Federal and local interests by enacting P.L.

93-198 (the Home Rule Act) and subsequent measures dealing with the District of Columbia. With regard to the issue of location of embassies and chanceries in the District of Columbia, Congress enacted the Fulbright Act in 1964, and reaffirmed its provisions as part of the Home Rule Act. That legislation has served well since its enactment, and I believe it strikes a fair and proper balance between the Federal and local interests.

The balance that Congress achieved by such legislation is indeed precarious, and at times adjustments have been necessary. We have, since 1973, made many changes to the Home Rule Act which have adjusted the level of local autonomy. In each instance, these changes were predicated with the discovery and documentation of a problem, which was then addressed by the proposed legislation. That is, after all, the genesis for nearly all legislation. I find that in the case of the location of embassies and chanceries in the District of Columbia that there has been no clear evidence provided to confirm the existence of any serious problems with the procedures established by the Fulbright Act. I believe the burden of providing such evidence clearly falls to the State Department and those in the legislative branch advocating change. In hearings conducted by our Committee, no specific information was provided to back up claims that problems exist which are having diplomatic repercussions.

I want to make it very clear that should information be provided by those supporting legislative changes that a serious problem does indeed exist, I would be one of the first to probe the issue and begin to offer remedies. This position is based on my firm belief that local interests and concerns must be given secondary consideration to the National interest. While I recognize that this specific issue could fall into that category, I do not believe that has been documented in even the slightest manner. Unsubstantiated claims and assertions do not in any way justify legislative changes. I am therefore opposed to changes in the existing procedures for location of embassies and chanceries in the District of Columbia at this time, and I would urge your Committee to closely examine the alleged problems before considering any new legislation. I believe the balance struck by the Fulbright Act has worked well over the years, and as far as I can determine, it is still working well.

I look forward to reviewing your Committee's hearing record and working with you on this issue in the future.

Sincerely,

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Stewart B. McKinney
Ranking Minority Member

LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA
Room 718 Dupont Circle Building | 1346 Connecticut Avenue, N.W. | Washington, D.C. 20036
phone 785-2816

January 22, 1982

STATEMENT OF THE LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA TO THE COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON GOVERNMENT EFFICIENCY AND THE DISTRICT OF COLUMBIA.

The D.C. League of Women Voters appreciates this opportunity to present testimony on S.854, the Foreign Missions Act.

The D.C. League of Women Voters opposes Section 206 of this bill and is supported in this opposition by the League of Women Voters of the United States, which is composed of about 1400 state and local Leagues.

Section 206 of the Foreign Missions Act is a regressive step in the long effort of D.C. citizens to achieve self-government. It undermines the Home Rule Act, which, however limited in the degree of autonomy granted our local government, represents the work of D.C. citizens over 100 years' time. Moreover, Section 206 could, if adopted, reduce the opportunities of our citizens to be heard in zoning decisions concerning the location of chanceries, matters which may affect them personally. Local control of zoning, for very good reasons, is the norm in this country and in much of the world.

The Home Rule government of the District of Columbia has been in existence less than ten years, a very short time as governments go. It would be a serious blow to have any part of its local zoning authority returned to federal control, as Section 206 proposes, through majority federal representation on the proposed D.C. Foreign Missions Commission.

We are in fact stunned that the Department of State, which concerns itself in so many ways with human and democratic freedoms abroad, seems so insensitive to the needs of citizens at its doorstep. Our government and our citizens recognize and seek to protect the federal interest in the District, and we are sympathetic with the Department's desire to develop measures to control the circumstances of our embassies abroad and to protect their operating freedom. Other measures in S. 854 seem appropriate to those needs; but impinging on our right of self-government through control over chancery locations and other zoning matters is absolutely inappropriate.

You have received ample testimony demonstrating that present arrangements have not impeded the ability of the Department of State or of foreign chanceries to receive the necessary attention from D.C. zoning authorities. The great majority of chancery applications have been approved. It seems to us, therefore, that the proponents of Section 206 must be called upon to show an extraordinary need for a mechanism which not only does such damage to the rights of D.C. citizens but potentially threatens citizens in other cities and states of the country where foreign installations exist. We do not believe such a showing can be made. Section 206 proposes an unwieldy and imprecise instrument to achieve the Department's aim. There is for example no necessary connection between the timing or purpose of applications by foreign chanceries for zoning actions here and the corresponding needs of U.S. embassies in the applicant countries.

"Action for self-government and for full voting representation in Congress for the District of Columbia" has been on the national program of the League of Women Voters of the United States for most of its existence and continues as a priority goal. The national program of the League is carried out by state and local Leagues as well. The D.C. League, both as a component of the national organization and in its own right, has fought for Home Rule and national representation for almost 60 years. The achievement of the Home Rule Act was too hard won for us to stand mute in the face of such a regressive step, particularly when it is unnecessary.

As you know, the 637,000 residents of D.C. do not yet have voting representation in the Congress. We therefore come before you as your "constituents", asking that you exercise your special obligation to represent our interests. We urge you to delete Section 206 and we commend your attention to S. 1818 which preserves an appropriate relationship between federal and local interests yet satisfies the need to protect our embassies and their operational freedom abroad.

Sue Panzer
President

Calendar No. 467

97th CONGRESS
2d Session

S. 854

[Report No. 97–283]

To promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of United States missions abroad.

IN THE SENATE OF THE UNITED STATES

April 1 (legislative day, February 16), 1981

Mr. Percy (for himself, Mr. Glenn, and Mr. Pressler) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

June 2 (legislative day, June 1), 1981

Ordered, that if and when reported, the bill be referred to the Committee on Governmental Affairs for a period of ninety calendar days, excluding weekends, holidays, and those periods when the Senate is not in session

June 4 (legislative day, June 1), 1981

Ordered, that if and when reported, the bill be referred to the Committee on Governmental Affairs for a period of forty-five calendar days, excluding weekends, holidays, and those periods when the Senate is not in session

November 30, 1981

Reported by Mr. Percy, with amendments

[Omit the part struck through and insert the part printed in italic]

November 30, 1981

Referred to the Committee on Governmental Affairs pursuant to the order of June 4, 1981

A BILL

To promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of United States missions abroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the State Department Basic Authorities Act of 1956 is amended by striking out "That the Secretary" in the first section and inserting in lieu thereof the following:

"TITLE I—BASIC AUTHORITIES GENERALLY

"SECTION 1. The Secretary".

(b) That Act is further amended by adding at the end thereof the following:

"TITLE II—AUTHORITIES RELATING TO THE REGULATION OF FOREIGN MISSIONS

"DECLARATION OF FINDINGS AND POLICY

"SEC. 201. (a) The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

"(b) The Congress declares that it is the policy of the United States to support the secure and efficient operation of United States missions abroad, to facilitate the secure and efficient operation in the United States of foreign missions and public international organizations and the official missions to such organizations, and to assist in obtaining appropriate benefits, privileges, and immunities for those missions and organizations and to require their observance of corresponding obligations in accordance with international law.

"(c) The assistance to be provided to a foreign mission in the United States shall be determined after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission.

"DEFINITIONS

"SEC. 202. (a) For purposes of this title—

"(1) 'benefit' (with respect to a foreign mission) means any acquisition, or authorization for an acquisition, in the United States by or for a foreign mission, including the acquisition of—

"(A) real property by purchase, lease, exchange, construction, or otherwise,

"(B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,

"(C) supplies, maintenance, and transportation, "(D) locally engaged staff on a temporary or regular basis,

"(E) travel and related services, and

"(F) protective services,

and includes such other benefits as the Secretary may designate;

"(2) 'chancery' means the principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and includes the site and any building on such site which is used for such purposes;

"(3) 'Director' means the Director of the Office of Foreign Missions established pursuant to section 203(a);

"(4) 'foreign mission' means any official mission to the United States involving diplomatic, consular, or other governmental activities of—

"(A) a foreign government, or

"(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States, including any real property of such a mission and including the personnel of such a mission;

"(5) 'real property' includes any right, title, or interest in or to, or the beneficial use of, any real property in the United States, including any office or other building;

"(6) 'Secretary' means the Secretary of State;

"(7) 'sending state' means the foreign government, territory, or political entity represented by a foreign mission; and

"(8) 'United States' means, when used in a geographic sense, the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(b) Determinations with respect to the meaning and applicability of the terms used in subsection (a) shall be committed to the discretion of the Secretary.

"OFFICE OF FOREIGN MISSIONS

"SEC. 203. (a) The Secretary shall establish an Office of Foreign Missions as an ~~independent~~ office within the Department of State. The Office shall be headed by a Director, appointed by the Secretary, who shall perform his or her functions under the supervision and direction of the Secretary. The Secretary may delegate this authority for supervision and direction of the Director only to the Deputy Secretary of State or an Under Secretary of State.

"(b) The Secretary may authorize the Director to—

"(1) assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled;

"(2) provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204; and

"(3) perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.

"PROVISION OF BENEFITS

"SEC. 204. (a) Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Director on such terms and conditions as the Secretary may approve.

~~"(b) The Secretary may require a foreign mission to obtain benefits from or through the Director on such terms and conditions as the Secretary may approve, if the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—~~

~~"(1) to facilitate relations between the United States and a sending state;~~

~~"(2) to protect the interests of the United States;~~

~~"(3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad; or~~

~~"(4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending state.~~

~~"(c) The Secretary may require any foreign mission to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement; the acquisition, retention, or use of any real property; or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).~~

~~"(d) Terms and conditions established by the Secretary under this section may include—~~

~~"(1) a requirement to pay to the Director a surcharge or fee, and~~

~~"(2) a waiver by a foreign mission (or any assignee of or person deriving rights from a foreign mission) of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other~~

~~person, in connection with any action determined by the Secretary to be undertaken in furtherance of this title.~~

~~"(c) For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate the Director or any other officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).~~

"(b) If the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—

"(1) to facilitate relations between the United States and a sending State,

"(2) to protect the interests of the United States,

"(3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad, or

"(4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State,

then the Secretary may require a foreign mission (A) to obtain benefits from or through the Director on such terms *and conditions as the Secretary may approve, or (B) to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement; the acquisition, retention, or use of any real property; or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).*

"(c) Terms and conditions established by the Secretary under this section may include—

"(1) a requirement to pay to the Director a surcharge or fee, and

"(2) a waiver by a foreign mission (or any assignee of or person deriving rights from a foreign mission) of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other person, in connection with any action determined by the Secretary to be undertaken in furtherance of this title.

"(d) For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate the Director or any other officer of the Department of State as the agent of a foreign mission (or of any assignee of

or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

"(e) Nothing in this section shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3, United States Code, or section 3056 of title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service.

"PROPERTY OF FOREIGN MISSIONS

"SEC. 205. (a)(1) The Secretary may require any foreign mission to notify the Director prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. If such a notification is required, the foreign mission (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action—

"(A) only after the expiration of the sixty-day period beginning on the date of such notification (or after the expiration of such shorter period as the Secretary may specify in a given case); and

"(B) only if the mission is not notified by the Secretary within that period that the proposal has been disapproved; however, the Secretary may include in such a notification such terms and conditions as the Secretary may determine appropriate in order to remove the disapproval.

"(2) For purposes of this section, 'acquisition' includes any acquisition or alteration of, or addition to, any real property or any change in the purpose for which real property is used by foreign mission.

"(b) The Secretary may require any foreign mission to divest itself of, or forgo the use of, any real property determined by the Secretary—

"(1) not to have been acquired in accordance with this section; or

"(2) to exceed limitations placed on real property available to a United States mission in the sending state.

"(c) If a foreign mission has ceased conducting diplomatic, consular, and other governmental activities in the United States and has not designated a protecting power or other agent approved by the Secretary to be responsible for the property of that foreign mission, the Secretary—

"(1) until the designation of a protecting power or other agent approved by the Secretary, may protect and preserve any property of that foreign mission; and

"(2) may authorize the Director to dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending state the net proceeds from such disposition.

~~"LOCATION OF FOREIGN MISSIONS~~

~~"SEC. 206. (a) In order to ensure the fulfillment of the international obligations of the United States and fulfillment of the policy of this title, and to ensure the orderly development of the national capital, the location, height, bulk, number of stories, and size of any building or other real property of a foreign mission in the District of Columbia, and the provision for open space in and around any such building or other property, shall be subject to approval by the National Capital Planning Commission (hereafter in this section referred to as the 'Commission'). This subsection does not apply with respect to a building or other real property of a foreign mission if the Commission determines that the property will only be used by a party other than a foreign mission and will only be used for activities that do not involve the~~

~~diplomatic, consular, or other governmental activities of a foreign mission.~~

~~"(b) Any determination by the Commission pursuant to subsection (a) of this section which involves approval of the location of or a use of real property for a chancery, or involves approval of site and building plans for a chancery, shall be considered rulemaking under section 553 of title 5, United States Code, and shall be based solely on the following criteria:~~

~~"(1) the Federal interest;~~

~~"(2) the chancery is in an area (A) of predominantly office use, (B) of mixed use, including residential, commercial, office, or institutional use, (C) of medium or high density residential use, or (D) in reasonable proximity to streets on which existing chanceries are concentrated;~~

~~"(3) historic preservation (as determined in accordance with regulations issued by the Commission in carrying out this section);~~

~~"(4) the extent to which the area will be served by public transit to reduce parking requirements;~~

~~"(5) the extent to which the area will have adequate public facilities, utilities, and services, including streets, street lighting, water, sewer, electricity, telephone, and refuse collection;~~

~~"(6) the area is capable of being adequately protected, as determined by a Federal agency authorized to perform protective services; and~~

~~"(7) the municipal interest.~~

~~Any other determination by the Commission with respect to real property of a foreign mission pursuant to subsection (a) of this section shall be based solely on the criteria specified in paragraphs (1), (3), (6), and (7), and such other criteria as the Commission may by regulation establish.~~

~~"(c) In any proceeding with respect to real property of a foreign mission pursuant to subsection (a) of this section—~~

~~"(1) a determination by the Secretary as to the Federal interest shall be given substantial weight; and~~

~~"(2) a determination by the Mayor of the District of Columbia as to the municipal interest shall be given substantial weight.~~

~~"(d) In any proceeding with respect to real property of a foreign mission pursuant to subsection (a) of this section, the final determination with respect to approval of a location or use or approval of site and building plans shall be made not later than five months after the date of filing an application for such approval.~~

"LOCATION OF FOREIGN MISSIONS IN THE DISTRICT OF COLUMBIA

"SEC. 206. (a) In order to ensure the fulfillment of the international obligations of the United States and the policy of this title, the location, replacement, or expansion of any building or other real property in the District of Columbia which is used for the diplomatic, consular, or other governmental activities (except property used exclusively for residential purposes) of a foreign mission shall be subject to the approval of the District of Columbia Foreign Missions Commission as provided in this section.

"(b)(1) There is hereby created, as an independent agency of the District of Columbia, the District of Columbia Foreign Missions Commission (hereafter in this section referred to as the 'Foreign Missions Commission') which shall consist of the five members of the Zoning Commission for the District of Columbia (as such members are designated by section 492(a) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-412)), the Chairman of the National Capital Planning Commission, and the Secretary of Defense, or such alternate as each such person may be designated from time to time.

"(2) While actually engaged in the performance of duties as a member of the Foreign Missions Commission, the Chairman of the National Capital Planning Commission (or

the alternate designated by the Chairman) shall be compensated by the District of Columbia in the manner and at the rates applicable to the members of the Zoning Commission for the District of Columbia who are appointed by the Mayor.

"(3) The Mayor of the District of Columbia shall furnish such facilities and administrative services, and shall assign such employees, to the Foreign Missions Commission as may be required by the Commission to carry out this section.

"(c) The Foreign Missions Commission shall—

"(1) establish areas within which chanceries may be located as a matter of right, and

"(2) establish additional areas within which chanceries may be located.

Limitations on chancery uses shall not exceed those applicable to any other nonresidential use in the areas so established.

"(d) Any determination by the Foreign Missions Commission pursuant to this section, including the establishment of areas in accordance with paragraphs (1) and (2) of subsection (c), shall be considered rulemaking under the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501—1-1510).

"(e) Any determination by the Foreign Missions Commission with respect to chanceries pursuant to this section,

including the establishment of areas in accordance with paragraphs (1) and (2) of subsection (c), shall be based solely on the following criteria:

"(1) The obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

"(2) The chancery is in or adjacent to an area, determined on the basis of existing or planned uses, of (A) commercial use, or (B) mixed uses, including residential, commercial, office, or institutional use.

"(3) Historic preservation, as determined by the Foreign Missions Commission in carrying out this section; except that substantial compliance with District and Federal laws governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks, in order to ensure compatibility with historic landmarks and districts.

"(4) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary.

"(5) The extent to which the area will have adequate public facilities, utilities, and services, including

streets, street lighting, water, sewer, electricity, telephone, and refuse collection.

"(6) The extent to which the area is capable of being adequately protected, as determined by a Federal agency authorized to perform protective services.

"(7) The municipal interest, as determined by the Mayor of the District of Columbia.

"(8) The Federal interest, as determined by the Secretary.

Any other determination by the Foreign Missions Commission pursuant to this section shall be based solely on the criteria specified in paragraphs (1), (3), (6), (7), and (8), and such other criteria as the Commission may by regulation establish.

"(f)(1) The regulations, proceedings, and other actions of the Foreign Missions Commission pursuant to this section shall not be inconsistent with Federal elements of the comprehensive plan for the National Capital. All elements of the comprehensive plan relating to the location of foreign missions shall be based solely on the criteria set forth in this section and shall reflect the policy of this title.

"(2) Proposed determinations by the Foreign Missions Commission shall be referred to the National Capital Planning Commission for review and comment.

"(g) The Foreign Missions Commission shall promulgate such regulations as it determines are necessary for it to carry out this section.

"(h) This section shall not be construed to authorize, and the regulations of the Foreign Missions Commission shall not provide for or require, procedures in the nature of a special exception or administrative proceedings of an adjudicatory nature.

"(i) In any proceeding with respect to approval of the location, replacement, or expansion of real property of a foreign mission pursuant to this section, the final determination by the Foreign Missions Commission shall be made not later than six months after the date of filing an application for such approval. Any such determination shall not be subject to administrative proceedings of any other agency or official except as provided in this title. Any such determination by the Foreign Missions Commission shall ensure the fulfillment of the obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions and shall take into account special security requirements as determined by the Secretary.

"(j) The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be

not inconsistent with the international obligations of the United States.

"(k) The United States, acting on its own behalf or on behalf of a foreign mission—

"(1) has standing to bring an action for judicial review of a determination by the Foreign Missions Commission under this section or, where appropriate, for judicial enforcement of the requirements of this section applicable to the Commission; and

"(2) has standing to intervene in any such action which is otherwise pending.

"(l) Approval by the Foreign Missions Commission under this section or, except as provided in section 205, by any other agency or official is not required—

"(1) for the location, replacement, or expansion of real property of a foreign mission to the extent—

"(A) that authority to proceed with respect to such location, replacement, or expansion was granted to the foreign mission before the date of enactment of this section, or

"(B) that rights or interests with respect to such location, replacement, or expansion were otherwise acquired by the foreign mission before the date of enactment of this section; or

"(2) for continuing use of real property by a foreign mission for diplomatic, consular, or other governmental activity to the extent that such property was being used by that foreign mission for that activity on the date of enactment of this section.

"PREEMPTION

"SEC. 207. Notwithstanding any other provision of law, no act of any Federal agency or of any State or municipal governmental authority shall be effective to confer or deny any benefits with respect to any foreign mission contrary to this title.

"GENERAL PROVISIONS

"SEC. 208. (a) The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this title.

"(b) compliance with any regulation, instruction, or direction issued by the Secretary under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court or administrative proceeding for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued by the Secretary under this title.

"(c) For purposes of administering this title, the Secretary may—

"(1) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the rate payable for ~~level IV of the Executive Schedule, under contracts which may be renewed annually;~~ *grade GS-18 level; and*

~~"(2) obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to availability of funds), the services of individuals to provide technical and professional services required to carry out the functions of the Director; and~~

~~"(3)~~ *"(2)* accept details and assignments of employees of Federal agencies to the Office of Foregin Missions on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency).

"(d) Contracts and subcontracts for supplies or services (except for personal services), made by or on behalf of the Director, shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed $10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatability of the supplies or services with implementation of this title.

"(e) The head of any Federal agency may, for purposes of this title—

"(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Office of Foreign Missions (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

"(2) acquire and accept services from the Office of Foreign Missions, including (whenever the Secretary determines it to be in furtherance of the purposes of this title) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

"(f) Assets of or under the control of the Office of Foreign Missions, wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

"(g) Except as otherwise provided, any determination required under this title shall be committed to the discretion of the Secretary. Except as provided in the first sentence of section 206(b), actions taken under the authority of this title shall not be considered rulemaking within the meaning of section 553 of title 5, United States Code.

"(h)(1) In order to implement this title, the Secretary may transfer such amounts available to the Department of State as may be necessary to the working capital fund established by section 13 of this Act.

"(2) ~~Notwithstanding any other provision of law, all~~ *All* revenues, including proceeds from gifts and donations, received by the Director or the Secretary in carrying out this title may be credited to the working capital fund established by section 13 of this Act and shall be available for purposes of this title in accordance with that section.

"APPLICATION TO PUBLIC INTERNATIONAL ORGANIZATIONS AND OFFICIAL MISSIONS TO SUCH ORGANIZATIONS

"SEC. 209. (a) The Secretary may make section 206, or any other provision of this title, applicable with respect to an international organization to the same exent that it is applicable with respect to a foreign mission if the Secretary determines, after consultation with the international organization, that such application is necessary to carry out the policy set forth in section 201(b) and to further the objectives set forth in section 204(b).

"(b) For purposes of this section, 'international organization' means—

"(1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288—288f-2) or other law authorizing such status; and

"(2) an official mission (other than a United States mission) to such a public international organization,

including any real property of such an organization or mission and including the personnel of such an organization or mission.

"PRIVILEGES AND IMMUNITIES

"SEC. 210. Nothing in this title shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this title, shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

"ENFORCEMENT

"SEC. 211. It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this title. This section shall be enforceable in any appropriate district court of the United States by injunctive or other equitable relief upon application by the Attorney General.

"SEVERABILITY

"SEC. 212. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to any other person or circumstance shall not be affected thereby.".

(c) Section 13 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2684) is amended in the first sentence by striking out "and" following the semicolon at the end of clause (3), and by inserting immediately before the period at the end thereof "; and (5) services and supplies to carry out title II of this Act".

(d)(1) Subparagraph (A) of section 2(1) of the Diplomatic Relations Act (22 U.S.C. 254a(1)(A)) is amended to read as follows:

> "(A) the head of a mission and those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities,".

(2) Section 3(b) of such Act (22 U.S.C. 254b) is amended to read as follows:

"(b) With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers shall enjoy the privileges and immunities specified in the Vienna Convention.".

(3) Section 4 of such Act (22 U.S.C. 254c) is amended—

(A) by inserting "the mission, the" immediately after "immunities for"; and

(B) by striking out "of any sending state".

(4) Section 1364 of title 28, United States Code, is amended by striking out "as defined in the Vienna Convention on Diplomatic relations" and inserting in lieu thereof "within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))".

(e) The Act of June 20, 1938 (Public Law 684, Seventy-fifth Congress; 52 Stat. 797) is amended—

(1) in section 6 by striking out "(a)", and by striking out subsections (b), (c), (d), and (e); and

(2) in section 16 by adding at the end thereof the following new sentence: "In addition, the provisions of this Act shall not apply to any real property to which section 206(a) if the State Department Basic Authorities Act of 1956 (relating to foreign missions) is applicable.".

RESPONSES TO WRITTEN QUESTIONS

DEPARTMENT OF STATE
Washington, D.C. 20520

MAR 29 1982

Dear Mr. Chairman:

In connection with hearings on S. 854 before the Subcommittee on Governmental Efficiency and the District of Columbia, the Department has compiled additional information in response to questions you have raised.

This information in most cases has already been provided to members of the Subcommittee staff, and in prior correspondence and testimony before the Senate Foreign Relations Committee and the Senate District Subcommittee of Governmental Affairs. We are hopeful that this information may be useful in clarifying some of the issues with which you have been concerned.

As we have noted in prior testimony, the Administration has already agreed to a significant compromise on Section 206 as passed by the House (H.R. 4814) and as reported out by the Senate Foreign Relations Committee. We believe that compromise is a reasonable solution which attempts to balance the concerns of both sides.

The following responses are keyed to the questions cited by number in your request.

Question 1:

District of Columbia Zoning regulations applicable to foreign government chanceries which were adopted in 1978 place unreasonable and discriminatory burdens on chancery applicants, and have caused an undue adverse impact on the federal interest.

The United States Government has an international obligation to facilitate the acquisition of acceptable and secure chancery locations in the capital city, which is directly related to reciprocal treatment of United States missions abroad, as well as to national security concerns here.

The Honorable
Charles McC. Mathias, Jr., Chairman,
Subcommittee on Governmental Efficiency
and the District of Columbia,
Committee on Governmental Affairs,
United States Senate.

It is important to note that chancery facilities are in most cases lower density land uses, which for security and representational purposes are normally required to be located in separate and individually controlled structures. Larger commercial office structures are in many cases unacceptale for security and related reasons. Federal security requirements have also increased the need to concentrate these uses in areas in which they are already in place.

Chanceries are less favorably treated under District regulations in comparison to other permitted institutional or commercial uses in almost all zones, except for high density commercial or residential zones which are often unacceptable for security reasons. For example, in the lesser density commercial districts which may be most suitable for smaller chancery uses, over 50 stated uses are permitted as of right, together with all office uses - except that only one such use is excluded - chanceries. In districts of slightly higher density, such as C-2A, a substantially wider list of uses is again permitted as of right, including all office uses, but chancery users are required to undergo a special exception type procedure, which effectively makes chanceries a disfavored use.

The only areas chanceries are allowed as of right are generally the higher density "C" districts, or other districts permitting high density development, which are both inappropriate for chancery use and in most cases unacceptable for security reasons.

In the same manner chanceries are a disfavored use in all "R" districts where they are technically permitted. In all "R" districts permitting chanceries, other non-residential uses which have considerably greater impact than most chanceries are nevertheless allowed as a matter of right, whereas chanceries again must undergo a special exception type of procedure.

You have requested zoning maps applicable to this subject. The Department does not have zoning map facilities, and does not maintain general zoning maps. Specialized land use map services may be obtained from the District's Zoning Commission or the National Capital Planning Commission, which are also utilized by the Department to review cases as approriate.

Question 2

Chanceries are the primary representational and functional offices of sovereign states accredited to the United States, which are required to be located in the capital city. Chanceries are inviolable, perform government functions requiring special communications and security, and are entitled to special protection by virtue of treaty obligations.

The overlay Diplomatic "D" zones failed to provide for matter of right location as required by the Foreign Missions Element of the Comprehensive Plan issued by the National Capital Planning Commission (NCPC). The "D" zones therefore, while technically providing for such areas, actually created disfavored uses.

Moreover, the criteria under which District decisions are currently made do not weigh the federal interests involved or the national security impacts that result from their actions. What the Department now seeks, and what we believe can result from the legislative proposal (S.854) now before Congress, is a balanced system whereby federal concerns are weighted together with local concerns, and a statutory basis for regulations which adequately reflect that requirement.

Question 3:

The Department of State has no formal role in the current zoning or development process. The procedures and criteria under current municipal regulations do not require a balancing of the federal interest, as represented by the foreign affairs or national security agencies. Therefore the federal agencies primarily involved have no particular standing in such matters, either before the Zoning Commission or the Board of Zoning Adjustment.

If requested by an agency such as NCPC or the Zoning Commission or by a foreign government applicant, the Department, after review of proposed locations or expansions of foreign government missions, in appropriate cases may provide advice or make statements in support or otherwise.

If S. 854 is enacted by Congress, the Department will require submission in advance from all foreign governments as to proposed location of official facilities, and will participate where appropriate in related proceedings.

In the normal course of conduct of diplomatic relations, the Department exchanges views with foreign governments both as to conditions encountered by United States missions abroad, as well as those encountered by their respective missions here. Matters of reciprocity are discussed when appropriate. Reciprocity issues when pertinent to chancery locations proceedings may become part of the record if applicable to the criteria involved.

Question 4:

The Department, in the normal course of diplomatic business, consult with foreign government missions. These consultations may include current problems encountered in the Capital City. Current legislation may be discussed, which would, when appropriate, include the proposed Foreign Missions Act. The Department's views on the adequancy of existing procedures are public. Advice to foreign governments cannot be premised on legislation not enacted by Congress. Foreign Governments are not obligated to provide reasons to the Department for deferring or proceeding with applications for chancery locations, and such decisions may involve circumstances unrelated to this proposed legislation.

Question 5:

The Pennsylvania Avenue Development Corporation (PADC) is primarily involved with large scale development and related open space, within a specific corridor, which would be inappropriate for the great majority of nations, whose missions require lower scale facilities, or whose financial resources would not permit consideration of PADC or downtown Massachusetts Avenue properties. The planned chancery development for the Government of Canada, one of the larger chanceries, reflects the special relationship developed between the United States and Canada as nations with a common border and shared Nothern Atlantic defense obligations.

Upon passage of the proposed International Center Act Amendments (S.1611) now pending before Congress, funds may be available to locate additional areas for chanceries through NCPC and appropriate District agencies involved in land use planning, which could include the D.C. Redevelopment Land Agency, if appropriate.

Question 6:

The term "mixed use" areas, for purposes of Section 206, is defined as "areas in which current uses already include institutions, commercial, or governmental activities, as well as residential uses (House Report 97-102, Part I, May 19, 1981, section-by-section analysis; Senate Report No. 97-283, November 30, 1981, section-by-section analysis.

Section 206(b)(2) would require determinations on chancery locations to be based on a survey of actual existing land uses. In some areas of the city, land use patterns differ from the underlying primary zoning. For example, some areas such as the Massachusetts Avenue "Embassy Row" corridor, carry an underlying zoning for lower density residential use, but also permit and in fact contain a substantial number of institutional or other nonresidential uses such as churches, schools, chanceries and non-profit institutions. Characterizing areas such as this as primarily residential does not accurately reflect actual land use. The requirement that determinations be based on actual land use patterns will facilitate a resolution of current problems, and aid in appropriate planning for chancery areas.

Question 7:

The D.C. Zoning Commission has general responsibility for zoning, subject to separate land use approval or review jurisdiction vested in the National Capital Planning Commission, the Pennsylvania Avenue Development Corporation, the Architect of the Capital, the Washington Metropolitan Area Transportation Agency, the Fine Arts Commission, the Urban Renewal authority, and the Commission on Historic Districts and Landmarks.

The Department is not in a position to ascertain whether the Zoning Commission has generally fulfilled its mandate. With regard to chancery locations, District zoning is subject to planning determinations vested by law in NCPC. The adoption of the Diplomatic overlay zones by the Zoning Commission was in part consistant with that obligation, and in part in derogation of it, by its failure to implement the matter of right provisions adopted by NCPC for chancery locations.

The views of the Department have generally been made known to the Zoning Commission in the course of various hearings and proceedings concerning chancery matters before the Commission, before NCPC, and in hearings before the Congress. The Department's concerns as to the adverse impact on the federal interest arising from the present minicipal process have been rather fully aired since 1978.

Question 8:

A Sending State must comply with applicable regulations of the Receiving State, which under international treaties are subject to the Receiving State's obligation to assure privileges and immunities to which the Sending State is entitled by treaty, such as inviolability of premises.

These obligations affect national security interests of both countries. Such obligations are of greatest importance in the capital city, because of the presence of the federal government and of the foreign governments chanceries. It is for this reason that the Administration seeks to amend applicable law, in order to assure that the federal impact is weighed in the decisional process, and that a balance is obtained between federal and local concerns.

Questions 9 through 12:

While the Department did not object to the general purpose of chancery provisions enacted as zoning amendments in 1964, conditions have changed substantially over almost 20 years, and have led to Administration support of the Foreign Missions Act, which includes repeal of the 1964 zoning amendments which are inconsistant therewith.

It must be recalled that at the time of passage of the 1964 zoning amendments which restricted chancery locations, there were significantly fewer nations represented as separate sovereign states in our capital, and security for foreign missions, for which the federal government hears a special protective responsibility, was not a substantial concern at that time.

The significant growth in the number of independent nations in the 1960's, the majority of whom were lesser funded nations or nations which required smaller sized missions, has resulted in problems different than those faced in the early 1960's and before. Foreign Mission locations and security concerns could no longer be reasonably accommodated under narrow applications of prior restrictive law. In addition, an increased emphasis on reciprocity among nations has developed in recent years, which impacts directly on United States missions abroad.

These factors have all contributed to the need to modify existing law and to ensure consideration of the federal interest as well as the local interest in this process.

Congressional repeal of the 1964 zoning amendments alone, however, would not be sufficient to accomplish the purposes of Section 206, since that Section is intended to assure a balancing of federal and local impacts.

Repeal of the 1964 amendments alone would remove the special exception process only in certain higher-density areas, which in most cases are inappropriate for small scale chancery facilities anyway, as well as unsatisfactory in some cases for security reasons. Repeal would not change present District procedures which impose a special exception process on chanceries in other areas best suited for them, or change regulations which fail to balance the federal impact of proposed local actions.

Question 13:

As indicated in the Department's response to Question (1), chanceries are restricted under present District regulations to special exception locations in all zones, except those which are least useable for security and related reasons, such as the higher density commercial and comparable zones.

Approximately 3.3 percent of non-federal land in the District is available for chancery use as a matter of right. This however includes high density sites often not useable for security reasons. There is virtually no percentage of land which provides matter of right locations in the areas more suitable for chancery use - the lower density mixed use areas.

Question 14:

Chancery uses are discriminatorily prohibited in lesser density commercial zones, although all other office uses are permitted there as of right, as well as a wide variety of other non-residential uses.

These areas, together with other lower density "R" zones, which in actual use are mixtures of institutional as well as residential uses, are in many cases the principal areas appropriate for chancery use.

Questions 15 and 16:

The Department participated in hearings before the Zoning Commission, and in meetings with appropriate District of Columbia agencies, as well as the National Capital Planning Commission, at all stages in the adoption of the Diplomatic Overlay zones.

The regulations ultimately promulgated by the Zoning Commission designated so-called Diplomatic Overlay zones ("D"zones), which added available areas for this use in a constructive manner. However, at the same time, the key factor of the NCPC Plan was eliminated by the Commission. This was the inclusion of matter-of-right areas acceptable from a federal security point of view for chancery use. By substituting instead a type of special exception procedure, except for areas generally unacceptable from a security point of view, such as higher density commercial areas, the Zoning Commission created substantial burdens for chancery applicants which has contributed significantly to the problems faced today by the federal agencies involved.

In view of the Administration's conclusion that the existing process should be modified to allow balancing of federal as well as local concerns, the matter is appropriately before Congress, rather than the courts.

Question 17:

Foreign missions are required to notify the Department only of official facilities for which they assert entitlement to privileges and immunities. It is the Department's intention to significantly expand that requirement upon enactment of S.854.

For your information, we have included the Diplomatic List, revised as of February 1982, which is published by the Department of State, and which includes chancery locations for all nations represented in Washington.

This information is updated from time to time, and the Department would be pleased to provide you with revised copies upon publication.

Question 18:

The first federal element of the Comprehensive Plan for the District of Columbia adopted in 1977 by the National Capital Planning Commission (NCPC), was the "Foreign Missions and International Agencies Element". NCPC, under the Home Rule Act has retained statutory responsibility to plan for such uses as a federal element. The Department of State participated fully in hearings and considerations of this matter with federal and municipal agencies involved.

While the Department was concerned as to limitations on areas for chancery use under the NCPC plan, the Foreign Missions Element nevertheless was a workable first step and provided for matter-of-right areas for chancery locations, an important key to resolving these issues in a manner compatible with the conduct of our foreign relations. The Foreign Missions Element was adopted with concurring votes of representatives of the Mayor of the District of Columbia, the City Council, and the Senate and House District Committees.

Question 19:

The Department discusses matters of this nature in the course of its regular conduct of diplomatic relations with foreign governments. Such discusssions take place with representatives selected by the foreign governments, which may include nationals of the Sending State or otherwise, and may include legal counsel or other technical representatives.

While the Department takes into account concerns expressed by foreign governments through their representatives, positions adopted by the Department are in all cases exclusively the Department's responsibility.

Question 20:

The principal problems faced by the Department are the existing District regulations and procedures that do not reasonably accommodate federal as well as municipal concerns. The Board of Zoning Adjustment process is one reflection of that problem.

As the Department stated in its letter to you of July 23, 1981, and in the several Congressional hearings on this subject to which you refer, matters concerning foreign mission locations in the nation's capital are resolved by District municipal authorities under current procedures without a balancing of the signficant federal interest involved. Section 206 was intended to assure recognition of federal as well as municipal concerns in the following key points:

(1) Criteria for approving foreign mission locations which achieve a proper balancing of important federal and municipal concerns;

(2) A decisional body which in its composition reflects both federal and municipal concerns relevant to the issue in Section 206;

(3) Procedures which are both expeditious and compatible with the conduct of our nation's official relations between sovereign countries; and

(4) Availability of lower and medium density mixed-use areas for chancery use.

Question 21:

The Board of Zoning Adjustment includes an NCPC representative. While NCPC, a quasi-federal agency which includes substantial municipal representation, reflects a broad range of land use and planning concerns, it is not charged with responsibility for and is not in a position to properly represent national security and foreign relations concerns.

In addition, the criteria and regulations under which matters are considered by the Board of Zoning Adjustment do not include the national security or the impact on the federal interest.

Question 22:

The Foreign Missions Commission proposed in the revised Section 206 as enacted by the House in H.R. 4814 and as reported out by the Senate Foreign Relations Committee, contains a balanced membership between the municipal and federal executive branch, and one congressional representative. This would appear to be a reasonable representation of the interests to be balanced.

As we have noted previously, the need for change results from a process that has failed to balance both federal and municipal concerns.

Question 23:

(1) The term "federal interest" is intended to encompass matters of national security, the ability to locate foreign chanceries in secure locations, and the impact on United States missions abroad, in addition to other matters deemed appropriate by federal agencies concerned with land use and the proper functioning of the federal establishment.

(2) through (4) Section 206, as enacted by the House and as reported out by the Senate Foreign Relations Committee, contains amendments to the language referred to in these questions. See Cong. Record, September 17, 1981, H 6341, containing amendments to H.R. 3518, and Senate Report No. 97-283, 97th Cong., 1st Session, November 30, 1981, accompanying S.854. The reference to the term "area" is intended to encompass actual land uses in place, in determining the appropriateness of areas for chancery use.

(5) The provisions of this subsection are normal land use planning criteria, drawn from the Foreign Missions Element of the Comprehensive Plan. Questions relating to the applicability of these terms therefore should be referred to the Commission.

(6) The assignment of responsibilities for federal protective services may vary, and it would be inappropriate to specify the agency to be involved. The Department is satisfied with existing arrangements with the Secret Service with regard to review of foreign government chancery locations. The Department coordinates with other interested federal agencies when appropriate.

(7) Questions regarding the interpretation of the terms "municipal interest" should be referred to appropriate city officials, in whom the authority to determine that interest would be vested under the statute.

Questions 24, 25, and 27 through 29:

The Department is not in a position to anticipate or determine what procedures may be adopted to administer these provisions by agencies in whom such authority may be vested by this legislation.

We do not anticipate difficulties for the proposed Commission in establishing site and building requirements where appropriate together with matter of right areas for location.

The time limitation proposed in Section 206 is a mandatory requirement, that is, administrative proceedings, if any, authorized under this Section must be completed within that period.

The Commission will be authorized to and is expected to require hearings that will allow all interested parties, public and private, including neighborhood associations, to present their views. In accordance with provisions of Section 206, hearings authorized by the Foreign Missions Commission would not be adjudicatory hearings. In addition, similar hearings are required under procedures of the National Capital Planning Commission, in connection with proposed modifications to the Comprehensive Plan that may result.

Question 26:

Since the Department is an interested agency, it was considered more appropriate to include other federal agency representatives on the proposed new Commission, in order to achieve a balanced consideration of the issues involved. It would not be appropriate to have direct representation by the Secret Service on a Commission of this nature.

Question 30:

Proposed Section 206(f)(1), regarding the National Capital Planning Commission, could result in reconsideration of provisions of the Foreign Missions Element of the Comprehensive Plan, to the extent determined by that Commission to be required to conform the Plan to the criteria of Section 206.

Question 31:

It is not possible to determine in advance under what factual circumstances the exercise of regulatory authority could give rise to liability of the United States. In view of the fact that applicable immunities prevent municipal or judicial enforcement of code compliance in many instances, the obligation proposed to be undertaken by the Secretary of State can enhance cooperation between foreign governments and the municipal agencies involved.

Question 32:

Amendments to Section 206 adopted in H.R. 4814 by the House, and contained in S.854 as reported out by the Senate Foreign Relations Committee, provide for the establishment of a District of Columbia rather than a federal agency under that Section. While District law, therefore, will determine where appropriate in what manner agencies of the District Government or private parties may seek review, specific reference to the right of the federal government to seek review was deemed advisable.

The Department would defer to the Corporation Counsel of the District of Columbia or to the appropriate United States Attorney matters with regard to procedures applicable to judicial review, and the appropriate scope of review under the circumstances of any particular case.

Question 33:

It is assumed that implementation of the provisions of the bill would involve judicial enforcement against a foreign government only as a last resort. Most governments are expected to comply with constraints, since S.854 authorizes a number of sanctions which could be employed to encourage compliance. Sanctions in appropriate cases could be extended to other benefits sought by a foreign government as an inducement to compliance.

The means of enforcement by diplomatic service organizations in other countries varies widely, and depends in part on the degree to which diplomatic personnel or foreign nationals have access to local commercial markets or services.

The Department will develop guidelines for implementation of the Act by the Office of Foreign Missions, should its establishment be authorized by Congress. These guidelines would cover the provision of services to foreign governments by government agencies such as customs, and by third parties including notice requirements where appropriate.

Question 34:

The State Department forwarded questions on overseas zoning regulations prepared by the Senate District Subcommittee, to posts abroad selected by the subcommittee.

Responses received indicated in fact that over three-fourths of the 25 countries in the survey provided for resolution of such issues by procedures which include nationally appointed persons or commissions, or direct involvement of national ministries. In the other countries involved, national ministries are indirectly involved in all cases. In none of these 25 countries are locations of United States Missions resolved without a similar balancing of their respective national security concerns, and in all cases we must in practice have approval of national authorities. The legislation proposed here is less typical, in that it more openly provides what most governments accomplish indirectly.

Question 35:

Problems confronted by United States missions abroad vary widely, depending on factors such as the type of social and political system, the status of bilateral relationships, and the existence of reciprocity issues. Since the United States maintains missions in over 150 countries, the Department would be pleased to discuss particular missions abroad that may be of interest to you.

Questions 36 through 40:

These questions involve the Department's planned International Center authorized by Public Law 90-553. Information available to the Department on these matters has been set forth in our replies to you of October 15, 1981 and January 7, 1982, concerning S.1611, now pending before Congress.

In addition to the information therein, the Department has testified before the Senate Foreign Relations and House Public Works Committees on S.1611 and H.R. 4716, that all new lease terms and provisions for space within the Center would be adjusted on the basis of reciprocity, including but not limited to the length of leases.

Question 41:

The Department's staff resources do not normally contain positions for land use specialists. The Department has therefore obtained additional services on a contractual basis in order to be properly advised on such matters.

The Department has employed for this purpose the law firm of Wilkes and Artis of Washington, D.C. The services of the firm have been used on an intermittent basis since 1976 in connection with the International Center project and with related land use and planning issues involving chanceries. The total expended since 1976 for legal fees for this purpose has been $44,300. The firm also represents foreign governments before both the BZA and the Zoning Commission.

Question 42:

The proposed Foreign Missions Act has been a legislative initiative which was introduced in the Senate as S. 854 by the Chairman of the Foreign Relations Committee, and in the House by the Chairman of the International Operations Subcommittee as an amendment to the State Department Authorization Bill (H.R.3518, subsequently enacted as H.R.4814). The views of the Department were sought, as were those of other interested federal agencies, including the Secret Service. On the basis of concerns expressed by the Secret Service prior to adoption of H.R.4814 by the House (see House Report 97-102, issued May 19, 1981), as well as the Senate Foreign Relations Committee, subsection 204(f) was added to S.854.

The Department is pleased to provide this additional information concerning S.854, which we hope will clarify the purposes of this proposed legislation.

Sincerely,

Powell A. Moore

Powell A. Moore
Assistant Secretary for
Congressional Relations

DEPARTMENT OF STATE
Washington, D.C. 20520

JUL 23 1981

Dear Mr. Chairman:

The Secretary has asked me to reply to your letter requesting further information on S. 854, the proposed Foreign Missions Act.

This bill was introduced by Senator Percy on April 1, 1981. Similar legislation was taken up by the House Foreign Affairs Committee and incorporated in H.R. 3518, the State Department 1982-3 Authorization Bill. The Department of State, in response to requests from the House and Senate Committees, has contributed to the drafting of various provisions. The Department expressed its support for the bill in a letter to the Committee on Foreign Relations dated May 13.

The Administration believes the proposed Foreign Missions Act will create needed federal regulatory authority over activities of foreign government missions to the United States and, additionally, will assist national security agencies in carrying out their functions in this area.

You have indicated interest in Section 206 of the Bill, which relates to the location of foreign missions in the nation's capital. The United States Government has an international obligation to facilitate the acquisition of property for chanceries in the District of Columbia under the 1961 Vienna Convention on Diplomatic Relations. The Department of State is severely hampered in its effort to meet this obligation in the nation's capital due to the unavailability of suitable chancery sites because of security, costs, and restrictive zoning problems. Of equal importance, there is a growing need for reciprocity involving the substantial security and other problems of the U.S. missions overseas.

Under current procedures in the District of Columbia, matters concerning foreign mission locations in the nation's capital are resolved by municipal authorities without a balancing of the significant federal interest involved.

The Honorable
Charles McC. Mathias, Jr., Chairman,
Subcommittee on Governmental Efficiency
and the District of Columbia,
United States Senate.

Section 206 was intended as an effective means, though not the only one which may be possible, of assuring recognition of federal as well as municipal concerns in the following key points:

(1) Criteria for approving foreign mission locations designed specifically to achieve a proper balancing of important federal and municipal concerns;

(2) A decisional body which in its composition reflects both federal and municipal concerns relevant to the issue in Section 206;

(3) Procedures which are both expeditious and compatible with the conduct of our nation's official relations between sovereign countries; and

(4) Availability of lower and medium density mixed-use areas for chancery use--security and representation requirements result in the need to locate such missions in proximity to each other and in areas of lesser density which already contain mixed institutional and residential uses. Space in higher density commercial office buildings which are not security controlled is not acceptable in most cases.

Taking into account these points, the National Capital Planning Commission (NCPC) was perceived as a reasonable means to accomplish the necessary balance, in view of the substantial city as well as federal representation on the Commission, including representatives of the Congress, which retains ultimate responsitility for the District of Columbia. In addition NCPC already by law has responsibility for planning in this area. The Department would like to assure your Committee that we are prepared to continue to explore alternative administrative bodies, as we have already done with city authorities at the request of the Chairman of the House District Committee.

With regard to your request for additional information concerning zoning priorities applicable to certain countries abroad, the Department has compiled and enclosed replies received so far from our Embassies.

The Department requested this information based on published procedures. It is important to note in this regard that the location of foreign mission facilities in most countries is subject to de facto review by national government authorities, whether or not that requirement is set forth in stated procedures. Thus, it is from national ministries that United States Embassies ultimately must seek permission or resolve issues.

It is also necessary, in connection with unclassified replies, to point out that most authorities abroad will not respond directly and on the record to questions concerning special security required of host governments under existing international obligations; nor will they comment publicly on the extent to which these matters may be discussed with foreign embassies, including those of the United States.

Finally, you have requested information concerning the construction of embassy complexes in Moscow and Washington. These projects have been provided for in bilateral agreements in 1969 and 1972. The 1972 U.S.-USSR Agreement states that the chancery facilities will be occupied simultaneously at an agreed date after final completion and acceptance, and that all other buildings may be occupied at any time after completion and acceptance for their designated use.

A subsequent U.S.-USSR Protocol to the 1972 Agreement stated the exchange of sites would take place on March 30, 1977, and that the Soviet side could start construction of their residential buildings and related facilities at that time. This Protocol also stated that the construction of the U.S. Embassy complex could begin May 15, 1978 and the target date for the completion of construction of both the U.S. Embassy in Moscow and the USSR Embassy in Washington is July 1, 1982.

The Soviet side has completed construction and is now occupying the residential buildings in Washington. The next phase of this project, which consists of the Chancery building and Consulate, is scheduled to be released to U.S. contractors for bids this summer. The time of completion for this work is not yet known.

The U.S. Embassy complex in Moscow is not being built in phases. The residences, related facilities, Chancery building and Consulate are being constructed simultaneously.

The negotiations with the Soviet side on contract terms and price took substantially longer than normal. A contract with a Soviet trade organization was signed June 30, 1979, and the completion date for this work is January 1, 1984. We estimate it will take an additional six months to complete work in the secure areas of the Chancery building. The Soviet contractor is now ahead of schedule on some areas of work and behind in other areas. On the average, the work is five months behind schedule. Problems have arisen from time to time, such as Soviet customs clearance of U.S.-source construction materials, which would require a review from a reciprocity point of view.

The Department would be pleased to provide additional information or to discuss these issues with you.

The Department of State has been advised by the Office of Management and Budget that from the standpoint of the Administration's program, there is no objection to the submission of these views.

Yours sincerely,

Richard Fairbanks
Assistant Secretary
for Congressional Relations

Enclosure:

As stated.

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Abu Dhabi, U.A.E.

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes, but the local government would not act on a matter involving a foreign government without reference to the Foreign Ministry.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Town Planning Department is an office of the Municipality, members are appointed and serve at the pleasure of the Municipal Director. There is a decree from the Emir which limits all new construction by foreign governments to the Diplomatic Enclave.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: The foreign government must be recognized diplomatically by the host government.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: The Town Planning Department has authority to approve building permits for minor projects. If the project would involve the Diplomatic

Abu Dhabi(cont)

Enclave the building permit is issued by the Diplomatic Enclave authorities. The enclave has a set of rules governing what facilities may be located in the enclave, building heights, setbacks, floor area ratios, parking requirements, exterior walls, fire exits, etc. Plans must be submitted in the english language using the metric scale of 1/100 in three copies.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: All land is owned by the Emir who can sell, lease, or deed to persons or institutions. Non-citizens are not permitted to own land

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: Existing chanceries or embassies may be remain in their present location, new construction must be within the enclave. The sites for each chancery and embassy is chosen by the enclave authorities.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: The Diplomatic Enclave Commission is an office of the Foreign Ministry.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, Abu Dhabi (cont)

attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Security was one of the reasons for the establishment of the diplomatic enclave. The Chancery and the Ambassadors residence each have a 24 hour police guard. There have been no notable incidents.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: If the rules supplied by the enclave authorities are followed, building permits can usually be obtained within one to two months. There have been no delays or evidence of unequal treatment by the authorities.

Algiers, Algeria

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes, but all levels of government are involved when a zoning question includes a foreign government.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes, by decree 64-259 foreign governments cannot buy, sell, rent, or improve property without authorization of the Foreign Ministry.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The city of Algiers is governed by 12 Communal Peoples Assemblies which act as zoning boards. They are elected for terms of four years from candidates selected by the sole political party and are the local government. Each Assembly is autonomous within its district in matters relating to zoning except in cases where the parcel of land in question is reserved for special use by the State Assembly or the Government of Algeria. Foreign Governments are not permitted to deal directly with the Peoples Assemblys; all contact is through the Protocol Office. There was an attempt to establish a diplomatic community which was abandoned in 1979.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Algiers, Algeria (cont)

Answer: The Foreign Ministry would require diplomatic recognition prior to granting permission to rent or improve property.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: Plans must first be submitted to the Office of Protocol, when approved they are passed to the Wilaya (state government) for technical examination. If approved, they are passed to the Peoples Assembly for issuance of the building permit. Complete plans and specifications must be submitted in the French or Arabic languages.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No foreign government has been permitted to purchase land in Algeria since 1962. The Government of Algeria leases publicly owned land to foreign governments for office and residential use. With some exceptions, land owned by foreign governments prior to 1962 has not been expropriated. The Mustapha-al-Rais property was expropriated from the U.S. Government, there is still and outstanding claim against the Algerians.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: The Protocol Division of The Ministry of

Algiers, Algeria (cont)

Foreign Affairs has responsibility for all real property activities of foreign governments.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Security does not appear to be a consideration in locating diplomatic missions. One policeman is posted near each chancery or residence and police protection in increased during times of unrest. In the fall of 1979 when there were attacks on U.S. Embassies in Tehran, Tripoli, and Islamabad there were six policemen at the our Chancery and two bodyguards were provided for the Ambassador.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The Foreign Ministry usually issues approval to lease or improve real property within six months. Delays of up to several years have been encountered because of problems locating sites. It is almost impossible to find out why there are delays in the Foreign Ministry, they could be related to specific nations.

Beijing, People's Republic of China

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes. Land use is regulated by a local equivalent of a zoning process.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Beijing City Planning Commission is composed of representatives of Beijing Construction Units, the Beijing Design Institute, Beijing exploration Co. and Utility Corp.
Members of the City Planning Commission are appointed for indefinite terms by the Beijing Party Committee.
Foreign Missions are restricted by local practice to specific parts of the capital city.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Foreign governments seeking building sites must request them from the Chinese government which will offer a lot in an area reserved for diplomatic missions. Options are limited, at best a choice is offered between two sites.

Beijing, People's Republic of China (cont.)

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: The Beijing Planning Commission must approve the project, and the Beijing Design Institute must review the architecture. All building projects must be developed under the aegis of the Housing Service Corporation (a division of the Beijing Service Corp. for Diplomatic Missions) which exercises absolute control over the work.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: As a general rule, diplomatic missions cannot purchase or own properties in China. Where Embassies move into existing properties, they do so on the basis of leases that extend for varying periods of time. Where Embassies acquire sites and erect buildings to their own specifications, the lease terms will reflect reciprocity considerations. Embassies must normally pay the cost (normally substantial) of relocating any local inhabitants on the site in question. Once built, the Embassy properties may be rent free for periods as long as 60 or 99 years (depending on reciprocal arrangements), but the PRC retains ownership of the properties. Leases on apartments in one of the PRC managed diplomatic apartment buildings are for one year, renewable yearly (in practice they are open-ended and missions remain in apartments indefinitely).

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Beijing, People's Republic of China (cont.)

Answer: Foreign missions are restricted more by tradition than law to specific parts of the city. With the exception of the Soviet Embassy, which occupies a compound in a separate part of the city; all diplomatic missions are now located in two distinct diplomatic areas in Beijing's northeastern suburbs. In most cases, the Ambassador's residence is on the same compound with the Chancery building. There are a number of exceptions to this practice therefore it does not appear to be a Chinese requirement.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: In cooperation with the Beijing Planning Commission the Beijing Housing Corp(BHC). has authority over location, expansion etc. of foreign missions. The BHC is a division of the Beijing Service Corp for diplomatic missions, and the latter is an adjunct of the PRC Ministry of Foreign Affairs.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: The PRC feels it is easier to protect foreign citizens by co-locating chanceries and residential compounds.
At entrances to all foreign mission chancery or residential compounds there will be anywhere from two to a half-dozen People's Liberation Army (PLA) guards stationed 24-hours a day.

Beijing, People's Republic of China (cont.)

With scattered exceptions (e.g. a bomb explosion outside the Soviet Embassy in April 1976 and a peaceful demonstration by local arab students outside the Egyptian Embassy in 1979) there have been no demonstrations, attacks, etc. against foreign mission properties since the early-seventies. Security is generally adequate.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Once a site is offered by the HSC and more importantly accepted by the foreign mission (and this can be a lengthy process), site preparation, design work and then actual construction can run from two to five years depending upon whether it is new construction or a modification project. There is a vague pattern, if not a direct correlation, indicating that PRC decisions on diplomatic mission properties can be politically motivated. For example, it is common knowledge in diplomatic community that apartment rents for some third-world missions are lower or even waived in some instances. But in chancery site allocation if extraordinary delays occur (as opposed to normal delays on building projects which also can be extraordinary in the PRC) it is likely that the PRC is dragging its feet to seek leverage and reciprocal treatment for its diplomatic property in the sending state's capital.

Bern, Switzerland

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: There is a zoning commission which is appointed by the Municipal government for terms of four years. Foreign missions are not restricted to certain parts of the city.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: A building permit, architectural review, and translation of site and building plans are required.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Bern, Switlerland (cont)

Answer: No

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: There are no special security consideration regarding locations in Switzerland. Although the Federal Government is responsible for security, since there are no federal enforcement officials, protection is actually provided by the city police. As a result of recent acts of vandalism at the Ambassadors residence by members of an adjacent youth center, the Bern police have recently provided special round the clock police protection at the residence. Police protection other than roving vehicle patrols is generally not provided unless there are special circumstances.

Question 10: What is the range of time periods required

Bern, Switzerland (cont)

for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Approval for construction of a new building requires approximately six months, major modifications require about three months. Plans which involve new construction are made available for public inspection.

Bonn, Federal Republic of Germany

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: General zoning plans are established by the city administration. When an application for a variance or a building permit is received the a committee of the city council holds a public hearing rules on the application. If approved it is passed to the President of the Provincial Administration who issues final approval. Members of the committee are elected for terms of four years. Chanceries are not restricted to certain parts of the city.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: Any foreign government is free to seek and purchase a site as long as the purchase is legally registered in the normal manner. To build, the foreign government must first get the approval of the President of the Provincial Administration then request a building permit.

Bonn, Federal Republic of Germany(cont)

The request must include all plans and specifications in the German language.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: If the FRG has excess property they will lease it, they do not purchase property specifically for resale.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: In Bonn security is not a FRG consideration in the location of embassys or other diplomatic properties. One unit of the Bonn Police provide coverage for embassys, they have regular patrols with motorcycles, cars and armored cars. The Police are capable of providing a large well equiped contingent in about five minutes. In times of tension temporary 24 hour police posts have been established at various embassys. The last incident was a demonstration by Iranian students in 1979 which was repulsed by the Police. There was an officer on duty at the U.S. Embassy for several weeks after that demonstration.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: If construction is in a developed part of the city permits are usually issued within 3 months. If no master plan for a new area has been approved then permits are delayed pending the acceptance of the master plan.

Caracas, Venezuela

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Zoning Commission is made up of members who are actually city government employees, their terms are indefinate. Chanceries or foreign missions are not restricted to certain parts of city, but relocation plans are subject to prior approval by the Venezuelan government.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Although certification is not required, a building permit is necessary.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: A local building permit is granted upon presentation of blue prints in Spanish which are certified by qualified Venezuelan civil engineer.

Caracas, Venezuela (cont.)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: We are aware of no security considerations regarding location of diplomatic properties. As far as security protection is concerned, the Venezuelan Government provides protection in accordance with Article 22 Paragraph 2 of Vienna Convention. In addition (and for U.S. Mission only) a detachment of National Guard is stationed on the Embassy compound. In regard to incidents there were 2 in the past 5 years, neither was significant.

Caracas, Venezuela (cont.)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Approval can usually be obtained in 30 to 90 days. Delay is inherent to the normal process and is not related to specific nations.

Doha, Qatar

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes, but for diplomatic missions the only involvment of the local government would be issuance of building permits for minor improvements to leased property. All construction is regulated by the national government.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: Zoning is regulated by the Government Planning Commission which is staffed by civil service employees. When the new enclave is completed all chanceries and residences will be located there. At present, foreign missions can rent buildings in any part of the city, however they are not be permitted to build or greatly improve existing buildings outside of the enclave.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes, foreign missions must apply for formal planning approval before beginning construction in the diplomatic enclave.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Doha, Qatar (cont)

Answer: All requirements are handled by the Planning Commission Office for Diplomatic Missions. There is a building code which permits submission of plans in English and zoning requirements such as height, number of floors, setbacks, fire/life safety rules, etc.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: All land in the enclave is owned by the Government of Qatar and will be leased to the foreign missions for up to 50 years.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: The Planning Commission has chosen the site for each foreign embassy and residence, some of these are located on adjacent plots of land. All embassys, ambassador's residences and staff residences will re relocated to the enclave within a few years.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: There is a Planning Commission Office for Diplomatic Missions headed by the Technical Advisor to the Emir. The Emir personally approves all requests for land and all building plans submitted by foreign governments.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Doha, Qatar (cont)

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Security considerations were not paramount in the Emirs decision to establish the enclave; However, security will be improved due to the limited access to the enclave and its distance from major population centers.
The Qatari Police promise to provide immediate response to any call from foreign missions.
There have been no incidents in Doha.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The Emir and the Planning Commission encourage construction in the enclave, approvals can be obtained quickly.

Guatemala, Rep. of Guatemala

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Zoning Commission has two members, the Director of City Planning and the Chief of Urban Construction Control Dept. They are appointed by the Mayor for indefinate terms. Diplomatic properties may be located in any part of the city

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: No foreign mission may own more than eight properties and reciprocity must be guarenteed so that the GOG may purchase an equal number of properties in the foreign capital.

Guatemala, Guatemala (cont)

Requests for authorization to build must be submitted through the Ministry of Foreign Affairs(MFA) and approved by the Cabinet. Upon receipt of the approval a request for a building permit may be submitted in the Spanish language. It must include architectural, structural, electrical, sanitary, and water plans. It must also show plans for alarm systems, incinerators, and other equipment installed by the Contractor.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Guatemala, Guatemala (cont)

Answer: Most diplomatic missions are located in the new section of Guatemala City where the crime rate is lower than in other parts of the city. All foreign missions have at least one policeman at the chancery and another at the chief of missions residence. In addition the foreign missions may hire Guatemalan policemen and bodyguards directly from the Defense Ministry. The most publicized incident in Guatemala occurred in Jan. 1980 when terrorists took over the Spanish Embassy and held all occupant hostage. The Guatemalan police stormed the building, the terrorists set it on fire, and killed 39 people including two Spanish diplomats and two Guatemalan officials. Since then three other diplomatic buildings have been bombed. The security offered by the GOG has not been changed since the attacks.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Permission to build can usually be obtained within a month, generally, there have been no extraordinary delays.

Hong Kong

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Crown Lands Commission acts as the zoning board, it is a branch of the Colonial Government.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: The Crown Lands Commission controls all aspects of construction and maintain a full staff of realtors, architects, engineers, and surveyors. The Commission performs an architectural and technical review prior to issuing a building permit. Plans are in English and must conform to rules issued by the Commission.

Hong Kong (cont)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: All land belongs to the Crown and is leased from the Crown

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Embassies are permitted to locate in any part of the Crown Colony, security is not a consideration of the Colonial Government. There have been no notable incidents. The diplomats receive the same Police protection as all other residents of Hong Kong.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, Hong Kong (cont)

or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Depending on the complexity of the project isuance of a building permit takes from six months to two years. There have been no extraordinary delays and the normal delays are not related to any specific country.

Islamabad, Pakistan

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: No, it is regulated by the national government.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: There is no local zoning commission, The Capital Development Authority(CDA), which is an agency of the national government, has responsibility for all land use or zoning in Islamabad. Foreign governments wishing to build must submit all plans to the CDA's Directorate of Architecture for approval. Members of the Directorate are appointed by and serve at the pleasure of the Chief of the CDA.
All new diplomatic construction must be inside the diplomatic enclave. All foreign missions are to be relocated into the enclave by July 1982.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Diplomatic recognition is a prerequisite, no other certifications are required.

Islamabad, Pakistan (cont)

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: None

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: The land within the enclave is owned by the Government of Pakistan(GOP) and is sold to the foreign missions.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: Yes

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: Yes, the CDA.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: The GOP has not used security considerations as justification for its request for foreign missions to relocate into the enclave.

Islamabad, Pakistan (cont)

In November 1979 the Embassy and all other buildings on our compound were burned by a mob, two Americans died as a result of the attack. The GOP has since assigned 40 Frontier Rangers to the Ambassador's residence and has promised to provide additional troops if needed.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Since the GOP is eager to get embassies to build in the enclave, approval of requests to build is quite rapid.

Lagos, Nigeria

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Land use is regulated by the Lagos State Government.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Foreign governments are required to comply with local zoning in locating, building, expanding or modifying their chancery, or mission, and Embassy.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The local zoning laws and regulations are written by staff members of the Lagos State Government who are civil servants.

Chanceries or foreign missions are not restricted to certain parts of the capital city.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: A foreign governments must be duly accredited before it can seek a site and build on it.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Lagos, Nigeria (cont.)

Answer:	Other approvals required: 1. Certification that all ground rents are paid; 2. Certification that development plans are consistent with local zoning laws; 3. Certification that construction plans are consistent with development plans and that proper foundations are provided that are compatible to soil composition; 4. Building permit; and, 5. All plans must be certified by a local architect.
Question 6:	Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?
Answer:	Yes, the land use decree of 1978 vested all land in the Governor of that state and such land would be held in trust and administered for the use and common benefit of all Nigerians, thus foreign governments may acquire long-term leases for land from the Lagos State Government on which it may build.
Question 7:	Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?
Answer:	There is no law that Chanceries and Embassies be located together or in separate locations. There is no set pattern locally.
Question 8:	Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.
Answer:	The Ministry of Economic Planning and Land Matters, Lagos State Government handles the location, expansion and modification of foreign missions.

Lagos, Nigeria (cont.)

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: There is no evidence to indicate that Nigeria locates foreign missions with security considerations in mind. Allocation of property appears to be a random affair with matters of reciprocity being a prime determining factor.

Nigeria does not have a formalized, comprehensive plan for the protection of foreign missions. Protection is provided on an ad hoc basis when requested by a particular mission. Response time is slow and mostly ineffective due to manpower and equipment shortage.

On 7 January 1980, approximately 20 Nigerian students seized the British High Commission in Lagos.

On 6 February 1980, approximately thirty Nigerian students held an anti-Muhammad Ali demonstration at the American Embassy. The demonstrators, who were peaceful in the main, occupied the lobby area for approximately two hours. At the Embassy request, four policemen appeared at the Embassy thirty minutes after the start of the demonstration. An Embassy vehicle had to pick them up at their station and return them there after the incident.

On 13 May 1981, approximately 30 Nigerian students staged a peaceful demonstration at the American Embassy in order to voice their opposition to our South African policy.

No changes have been made in the Nigerian Government's security protection of foreign

Lagos, Nigeria (cont)

missions. Their response continues to be dependent upon manpower and equipment availability.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their Chanceries, Missions, and Embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The time period varies and is dependent upon personal relationships with approving officials and the kind of approval one seeks. Allocation of land may take from six months to one year; site plan approval - six months; building plans approval - six months; approval to modify or expand - six months. Delays are inherent in the approval process.

Lilongwe, Malawi

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes. There are separate areas for residential and office buildings.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Town Planning Committee (zoning commission) is comprised of nine members who are appointed by the GOM for indefinite terms. Foreign missions are encouraged to build in zones designated for office buildings, but there is no law on this point.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Diplomatic recognition is required.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: The only requirement when applying for a plot or requesting approval for the construction of an Embassy, extension, etc. is the submission of building plans.

Lilongwe, Malawi (cont.)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: The GOM, through an office of the state government, the Capital City Development Corporation, builds homes and offices for rental or sale to foreign governments and other organizations who do not have their own buildings.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Security is not a GOM consideration. The host government can provide police or other protection if required to do so. There have been no demonstrations, attacks or incidents directred against foreign missions.

Lilongwe, Malawi (cont.)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The normal time to obtain a building permit is six to eight weeks, there have been no extraorinary delays and no delays related to specific nations.

Lisbon, Portugal

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Lisbon city government acts as the zoning commission, the Mayor is elected for a term of three years.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: An official note from the foreign embassy requests approval from the Ministry of Foreign Affairs for the acquisition of the site and the construction of the building. When approved a notice is sent to the municipal government.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: The Lisbon Municipality approves building plans for new buildings, modifications, or

Lisbon, Portugal (cont)

expansions and issues necessary building permits. All plans and specifications must be in the Portuguese language and in accordance with local regulations.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Chanceries are normally required to be located in the "small Lisbon" area. Depending of the perceived threat, the Potuguese Police provide free uniformed guard services for the chief of mission. Within the last year the Chilean and Brazilian Embassies were bombed. There is a special Diplomatic Protection Brigade in the Portuguese Police.

Lisbon, Portugal (cont)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: If local regulations are closely followed 30 to 90 days should suffice for the issuance of a building permit. The U.S. Embassy is not aware of any extraordinary delays.

London, England

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The local government planning office acts as the zoning commission. The planning office consists of a group of appointed qualified personnel employed by the local government for an indefinite term.
The Chanceries or foreign missions are not restricted to certain parts of the London but most foreign missions choose to be close to the government offices.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

London, England (cont.)

Answer: There are two steps in obtaining permission to build, outline planning approval and final approval. Outline planning approval involves the submission of a written proposal stating the expected use of proposed building to a local government office. Upon receipt of the outline approval, final planning approval would be requested, this involves the submission of detailed architectural drawings detailing size, layout and construction materials to be used.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: Yes, in some circumstances.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: If approval is not granted by the local government planning office, foreign missions can appeal to the host country's Foreign Affairs Office.

London, England (cont.)

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: There are no specific security considerations involved in locating foreign missions, chanceries, and Embassies in the UK. There are numerous demonstrations throughout London, some of them directed against foreign chanceries, etc.

The Diplomatic Protection Group (similar to the US Secret Service Uniform Division) augmented by Metropolitan Police has the responsibility for protecting foreign missions and personnel. With the exception of the April-May 1980 takeover of the Iranian Embassy, local authorities have basically controlled demonstrations and potential problem areas. The well-publicized seige on the Iranian Embassy, by the Special Air Services (SAS) in itself has been a deterrent to would-be terrorists. There have been no observable changes in the security protection due to the Iranian Embassy takeover.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

London, England (cont.)

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: There is no set "time period" for approval from the host government. To a great extent it does depend on the country of origin.

According to a spokesman from the Department of the environment it does depend on the foreign government, i.e., third world countries are experiencing extended delays as opposed to other governments.

As a rule, one should allow up to a year for government approval of plans put before the local planning authority including the time to appeal to the host nation's foreign office should the local authority refuse application.

Lusaka, Zambia

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Office of the City Council which is staffed by permanent employees acts as the zoning commission. Foreign missions are not restricted to certain parts of Lusaka.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: Permission from the Ministry of Foreign Affairs(MFA) and a building permit issued by the City Council are required.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Lusaka, Zambia (cont.)

Answer: No.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: The MFA will not approve location of foreign missions or residences close to sensitive military areas. GOZ security is provided to missions only on request for specific occasions. For example, when demonstration outside British Mission spilled over to American Embassy grounds in Nov. 1979. No other incidents have occurred since Nov. 1979.

Lusaka, Zambia (cont.)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The time to receive MFA consent can vary from four months to over one year. Delays are inherent in local red tape and not related to specific nations.

Mexico, Mexico

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: There is no zoning commission but the delegations which are sub-units of the city government each have a licensing office which reviews proposals for construction. The members of the delegations are civil servants. Each area of the city is designated for residential or office use and foreign missions must respect the zoning in the location of the chanceries, residences, and other facilities.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes, foreign governments are allowed to own only two properties, the chancery and the ambassador's residence. The Foreign Ministry must certify to the Municipal government that the any purchase will not violate that principle.

Mexico, Mexico (cont)

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: Both the Delegation and the Mayors office must approve the plans before a building permit can be issued.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: The city government does not consider security in deciding where to locate foreign

Mexico, Mexico (cont)

missions. The Police are responsive to the U.S. Embassy and a fixed Police post is established at the Embassy. There are demonstrations at least monthly. Recently a crowd occupied the Embassies of three Latin American countries.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The application by the Canadians to build a chancery required two years, this seems to be the norm. Delays can be attributed to the fragmented nature of the Municipal Government.Mexico

Moscow, U.S.S.R.

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes, through the executive committee of the Moscow City Council.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes, but the Ministry of Foreign Affairs(MFA) will ascertain whether local zoning regulations have been complied with.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The United States Embassy, like all foreign embassies, can only deal with governmental organizations through the MFA. We do not know who actually decides where foreign embassys may be located.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: The MFA deals with the appropriate governmental agencies the U.S. Embassy has never been informed who reviews the proposals or on what criteria zoning decisions are based

Moscow, U.S.S.R. (cont)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: The Soviet government owns all real property, it leases but does not sell land.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: Most embassies and chanceries are located in central Moscow probably because of the availability of suitable buildings. Some new chanceries have been built away from the center. There is no requirement that the Ambassador's residence be co-located with the office building.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: Yes, all services for the diplomatic corps are handled by a branch of the MFA .

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Twenty-four hour guards are posted in front of every embassy or chancery. There have been no notable demonstrations, attacks or other incidents.

Moscow, U.S.S.R. (cont)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Extraordinary delays are routine and are inherent in any nation's dealing with the Soviet Bureaucracy.

New Delhi, India

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: No, land use is regulated through zoning regulations formulated and administered by the Delhi Development Authority (DDA) which is an office of the Government of India (GOI).

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes, but variances can be obtained in special cases.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Advisory council (Zoning Commission) of the DDA consists of 21 members:
the chairman of the DDA, Chairman
2 town planning architects
4 municipal councilors
a public health official
3 Commerce and Industry representatives
4 national Government technical representatives.
a representative of the Electrical Dept.
a representative of the Water and Sewer Dept.
a representative of the transport Dept.
4 Members of Parliament.
All members except the chairman and the two architects are appointed by their respective organizations for a term of four years. The chairman is appointed by the Prime Minister and the architects are employees of the DDA. Although New Delhi has a separate area

New Delhi, India (cont)

earmarked for the location of diplomatic missions, it does not restrict the missions to that area.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: There are several municipal authorities which must approve the plans prior to issuance of a building permit, these include the Arts Commission, the City Council, and the Municipal Corporation for Structural, Electrical, Plumbing, and Air Conditioning Installations. Plans must be in English and use the Metric scale, a scale model is also required.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: Land can only be purchased through the GOI.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: There is no special commission to handle the location, expansion, and modification of foreign missions. The DDA would handle any

New Delhi, India (cont)

matter involving a foreign government on the basis of an application received from the Misistry of External Affairs.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: The GOI provides either fixed Police posts or roving patrols for all diplomatic missions. There have been no notable incidents.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: Requests normally require from one to three years depending on the nature of the project. The Embassy is not aware of any delays other than the normal delay inherent in any bureaucracy in India.

Ottawa, Canada

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes. Land use is regulated through zoning by the local government.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: Zoning by-laws are used for routine matters and considered by the elected city council as a whole. Ad hoc sub-committees are appointed for special considerations. Chanceries or foreign missions are not restricted to certain areas of the capital city.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: Conformity with local laws and regulations, and concurrence of Department of External Affairs through Protocol and the National Capital Commission (NCCO).

Ottawa, Canada (cont.)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: Not as part of any plan and not for any profit.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Security is not a GOC consideration in the location of foreign embassys. Static protection is provided through the Office of Protocol in the Department of External Affairs upon request or through threat analysis. Usually until there is a threat through assessment no stationary protection is supplied. There is a reactionary force composed of RCMP and local police which is readily available. There have been no signifigant incidents.

Ottawa, Canada (cont.)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: There is no set time limit. But any routine request should be submitted six months in advance and allow for the usual bureaucratic red tape. There is some reciprocity with certain Eastern European nations and other governments.

Panama, Republic of Panama

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes, land use is regulated by the Municipal government but any matter involving a foreign mission would be sent first to the Ministry of Foreign Affairs(MFA) and if it involved major construction would be sent to the Office of the Head of Government (Gen. Torrijos).

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: There is no elected or appointed zoning commision, all decisions involving zoning or construction are made by the Director General of Urban Renewal. Embassys and residences may be located anywhere in the city.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Panama. Rep. of Panama (cont)

Answer: It appears that only a note to the Foreign Ministry informing them of the foreign governments intention to purchase, build, modify or expand real property is needed. Building permits woudl be issued to the contractor upon presentation of plans and after approval by the MFA.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Security is not a consideration of the GOP in relation to location of embassies. There is one National Guardsman at the U.S. Embassy at all times.

Panama, Rep. of Panama (cont)

There have been three notable incidents in the last nine months; the GOP responded to each but did not change the procedures.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The U.S. Embassy has not requested a building permit in many years. It is understood that they depend upon the relations between the countries and that the time to obtain approval can vary widely. The MFA refused to give the Embassy a definate time frame for issuance of a permit.

Paris France

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: There is no Zoning Commission. The zoning laws and regulations relate to a master plan known as the "Ground Occupancy Plan for the City of Paris". The plan is the result of a lengthy study by city planners, architects, engineers, and other urban specialists. The current plan became law by a Perfectural Decree dated 28 Feb. 77. Chanceries are not restricted to certain parts of the city.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No, but the Ministry of Foreign Affairs must be officially notified.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Paris, France (cont)

Answer: After an architectural review a building permit is issued by the municipal government. Application for the permit must include complete plans and specifications translated into French.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: There are no specific restrictions relative to security in connection with locations of diplomatic establishments. Security protection varies according to the size, importance, and visibility of the diplomatic

Paris, France (cont)

mission. There have been peaceful demonstrations at various chanceries and diplomatic offices during the past few years, and several diplomatic personnel have been subject to terrorist attacks. The host government has been very quick to provide additional security protection when the need arises

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The time period required ranges from 3 to 5 months according to the importance of the project and are inherent in the approval process. There are no extraordinary delays and at any rate those delays would not be related to specific nations.

Riyadh, Saudi Arabia

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: No, by law, all diplomatic missions must be located within the Diplomatic Quarter(DQ). The DQ has detailed zoning regulations which are administered by the High Executive Committee(HEC).

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Foreign Governments are required to comply with the regulation of the HEC.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The HEC is composed of the following members:
Governor of Riyadh, Chairman
Deputy Governor of Riyadh, Deputy Chairman
4 Deputy Ministers from functional ministries
the Mayor of Riyadh

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: None

Riyadh, Saudi Arabia (cont)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: All land in the DQ is owned by the Saudi Arabian Government(SAG) and is leased or sold to the foreign missions through the HEC.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: In the DQ all sites have been selected for the various nations by the HEC. The site selected for the USA has both the Chancery and the Ambassador's residence on the same site.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: Yes, the HEC which reports directly to the Royal Household. All important decisions by the HEC are made in the name of the King.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: The SAG will provide adequate Police protection. Security was an important consideration in the establishment of the DQ. There have been no incidents.

Riyadh, Saudi Arabia (cont)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The DQ is a new project and no plans have been submitted for approval yet. It is anticipated that approval will be quick because the King has decided that he wants all of the embassys moved to Riyadh in 1983.

Rome, Italy

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes.

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes.

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Building Commission which approves any new construction project, alterations and additions to existing buildings is made up of the Mayor of Rome, Assessor to the Zoning Plan, Assessor to Urbanistics, Assessor for Building Matters, one representative of the Fine Arts Commission (for the Historical Center of Rome), Chief Lawyer of the Commune of Rome, an engineer of the Rome Fire Department, and a number of engineers and architects who act as consultants.

This Zoning Commission is appointed for a period of two years. There are no restrictions by local law to restrict chanceries or foreign missions.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes.

Rome, Italy (cont.)

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: A note verbale is submitted to the MFA to inform the Italian Government of the desire to (A) acquire unimproved property to build an office building or residential housing units (B) acquire one or more buildings for offices or residential housing, specifying if modifications and/or additions are planned (C) improve or alter any building already the property of the U.S. Government. For example, this is required for the repainting of the facades of a building. Please note that preliminary approval for any purchase, or sale, of real estate property must be obtained with a decree signed by the president of the Italian Republic. This alone may take from three to six months.

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No.

Rome, Italy (cont.)

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: The security protection afforded foreign missions in Italy varies from Embassy to Embassy. Generally, the Italian police prefer to utilize roving patrols in automobiles rather than fixed outside pedestrian posts. At high risk Embassies the police often utilize a combination of a fixed pedestrian post with a roving patrol as support. At the U.S. Embassy in Rome we normally have a roving police patrol car, in times of increased tensions or anticipated reactions to external events, the police supplement their patrol car with fixed posts.

In the past three to four years, the Libyan, Turkish, Syrian and Belgium Embassies have been attacked by one group or another with resultant injuries and deaths.

The Italian Government has asked all foreign missions to provide as much of their own internal security as possible. While they recognize their ultimate responsibility in protecting these missions, they also freely admit that they are short of personnel to deploy in this type of protective duty as their resources are needed in the fight against terrorism and public crime.

Rome, Italy (cont.)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The time range is from two to three years from the first note verbale to the foreign office.

Yes, there has been some extraordinary delays. The permit to build the Marine Quarters above the Embassy garage area took over five years. This was due to the fact that the Embassy compound is considered an historical site and is located in the historical center of Rome. Delays beyond the two to three year period should be anticipated for buildings in the historical center of the city. Delays are not related to any specific nation.

The Hague, Netherlands

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes, by the Municipal government

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Municipal government reviews the plans and issues building permits. The Municipal officials are elected for terms of four years. Foreign missions may locate in any part of the city.

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: Yes

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: The foreign mission must get a building permit, plans must be submitted in the Dutch language and an architectural/structural review is required.

The Hague, Netherlands (cont)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: Yes

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No, but they must be within the city limits

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: The Protocol Office of the Ministry of Foreign Affairs handles matters relating to construction and real estate.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: Security is not a consideration in regard to the location of foreign missions. The city government provides Police protection as required. There have been no signifigant demonstrations or incidents.

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

The Hague, Netherlands (cont)

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: For small projects approval is swift, if a project involves new construction the approval process could be very lengthy. Delays would be due to the process not related to specific nations.

Tokyo, Japan

Question 1: Is land use regulated by the local government through zoning or a similar process?

Answer: Yes

Question 2: If so, are foreign governments required to comply with local zoning in locating, building, expanding, or modifying their chancery, or mission, and embassy?

Answer: Yes

Question 3: If foreign governments are subject to local zoning laws and regulations, what is the composition of the zoning commission?

Is it appointed or elected?

For what term?

Are chanceries or foreign missions restricted by local law to certain parts of the capital city?

Answer: The Zoning Commission is composed of 5-7 members appointed by the head of the city for terms of two years. Embassies are not restricted to certain parts of the city

Question 4: Does the host nation require a certification of the foreign government or other form of recognition, before that foreign government can seek a site and build on it?

Answer: No.

Question 5: What other local approvals are required of foreign governments before they may locate, construct, modify, or expand their chanceries, missions, and embassies?

Answer: City fire code; land utilization law; structural review in case of highrise; neighbor's consent with regard to the environment annoyances and/or pollution attributable to the construction.

Tokyo, Japan (cont.)

Question 6: Does the host nation purchase property and subsequently resell or lease it to foreign missions for chancery, mission, or embassy purposes?

Answer: No.

Question 7: Is it common practice or required by law for chanceries and embassies to be located together rather than in separate locations?

Answer: No.

Question 8: Does the host nation have a special commission or agency to handle the location, expansion, and modification of foreign missions? If so, describe composition and authority.

Answer: No.

Question 9: What security considerations are involved from the point of view of the host nation in locating foreign missions, chanceries, and embassies in their respective countries?

Describe the host nation's security protection for foreign governments located there.

Have there been any notable demonstrations, attacks, or other incidents involving foreign nations' chanceries or embassies? Describe the incident and any resultant changes made in the host nation's security protection.

Answer: From a security point of view, there is no host government involvement in selecting locations for foreign diplomatic missions in Japan. Security protection is provided to missions based on the Japanese perceived threat level, currently only the U.S., Korea and USSR receive protection. There have been no notable incidents affecting U.S. facilities since 1974.

Tokyo, Japan (cont.)

Question 10: What is the range of time periods required for foreign governments to secure the necessary approvals to locate, build, modify, or expand their chanceries, missions, and embassies?

Have there been any extraordinary delays in the process?

Are those delays inherent in the approval process or related to specific nations?

Describe the extraordinary situation.

Answer: The building code stipulates that the building officials shall notify the applicant in writing within 21 days from the day of the receipt of the application.

DEPARTMENT OF STATE
Washington, D.C. 20520

OCT 30 1981

Dear Senator Mathias:

We are pleased to transmit herewith the additional information you requested which will supplement our previous responses concerning the proposed Foreign Missions Act (S. 854).

The proposed Foreign Missions Act has been a legislative initiative which was introduced in the Senate as S. 854 by the Chairman of the Foreign Relations Committee and in the House by the Chairman of the International Operations Subcommittee as an amendment to the State Department Authorization Bill (H.R. 3518). We believe this additional information will clarify our position on in connection with the Department's testimony on this Bill before the Senate Foreign Relations Committee. The following responses are in the order of the questions you have presented to the Department.

(1) As indicated in the Department's testimony before your Committee on June 24, the Administration supports S. 854. This legislation will enable the Secretary of State to balance the treatment accorded foreign governments in the United States with the treatment received by our government abroad, and will enhance our national security. The establishment of reciprocity as the basis of foreign mission activities will contribute to a more effective management of our relations with other nations, assist in upgrading the security of United States posts and personnel overseas, and help restrain unnecessary cost increases abroad.

(2) The current process of the District of Columbia applicable to the location or expansion of foreign mission chanceries in our capital presents substantial problems for the Department of State.

The District Zoning regulations applicable to chancery locations which were adopted in 1978 place unreasonable and discriminatory burdens on chancery applicants, and have caused an undue adverse impact on the federal interest. The United States Government has an international obligation to facilitate the acquisition of acceptable and secure chancery locations in the capital city, which is directly related to reciprocal treatment of United States missions abroad. The Department has however since 1978 faced an increasingly difficult task in attempting to protect the federal interest in this area. This situation has had an adverse effect not only on the conduct of our foreign relations, but on the security of our missions as well.

It is important to note that chancery facilities are in most cases lower density land uses, which for security and representational purposes are normally required to be located in separate and individually controlled structures. Larger commercial office structures are in many cases unacceptable for security and related reasons. Federal security requirements have also increased the need to concentrate these uses in areas in which they are already in place.

Current District zoning regulations nevertheless unduly restrict areas in which chanceries can locate, and even prohibit chancery facilities notwithstanding the fact that other institutional or commercial uses may be permitted as a matter of right in the same zones. In some zones, for example, in addition to permitting a wide variety of non-residential uses, all office uses without limitation are permitted, as a matter of right, except for the exclusion of only one use - chanceries. This approach unfortunately has created a negative impact on the important federal interest involved.

Moreover, the criteria under which decisions are made by local authorities as to particular locations, and municipal regulations applicable thereto, do not properly weigh the federal interests involved or national security impacts that result from their actions. What has resulted is a system whereby municipal authorities resolve such matters involving federal interests on wholly local and municipal grounds. What the Department now seeks, and what we believe can result from the legislative proposal now before Congress, is a balanced system whereby federal concerns are fully weighted together with local concerns, and that the applicable law and regulations adequately reflect that requirement.

(3) The determination as to which situations encountered by the United States abroad should result in reciprocal imposition of constraints upon foreign government missions in the United States, must be decided on a case by case basis and be balanced with political or economic bilateral issues. Reciprocity would be applied as a broad concept, that is, constraints imposed on the United States abroad may in some cases not be able to be matched by similar constraints here, or it could be determined that different constraints are necessary.

Some cases, for example, could occur where it is not in the best interest of the United States to permit a particular country to acquire a new location or expand existing facilities, as a result of burdens placed on our government of a wholly different nature abroad. It is expected that cases of that nature would be more appropriately dealt with under procedures authorized by Section 205 of S. 854.

Under Section 205, foreign missions will be required to provide prior notice to the Department, and can only proceed to process applications for approval of new or expanded locations,if the Department does not disapprove such action within a fied period of time (normally 60 days). Thus, specified applications subsequently filed to approve particular locations will have already passed a section 205 review, and would then be considered on their own merits under criteria to be established in accordance with Section 206.

(4) The most important element of S. 854 in our view is the statement of Congressional policy that reciprocity will be the basis for foreign missions to conduct activities in the United States. This is a policy with which this Administration agrees, and is prepared to support.

It is difficult to separate in order of importance the substantive provisions of the Bill, since the authorities to be granted therein are interrelated. On the other hand, the substantive provisions containing authorization for the Secretary of State to apply reciprocity are necessarily of greater importance than the establishment of an Office of Foreign Missions, and provisions related thereto. One of the substantive provisions, section 206, deals with the location of foreign missions in the nation's capital, which is a necessary element of any reciprocity legislation. Other provisions authorized the Secretary of State to relate, and to improve conditions upon, foreign government activities in the United States.

(5) It is not feasible to rank order the difficulties faced by United States Missions and personnel abroad, since the nature of the problems and the severity of each varies country by country. The effect however of increasing constraints on United States missions and personnel abroad has had an adverse effect on the conduct of our foreign relations.

For example, the increasing incidence of discriminatory costs abroad or access to services or supplies involving acquisition or operation of chanceries, staff housing, local labor, etc., are placing unacceptable burdens on overseas operations in an era of declining budgetary resources. Increasing security problems affecting the safety and morale of our embassies abroad has led Congress already to authorize the Department to implement a major overseas program of security enhancement of United States posts. This includes relocating or expanding or improving existing locations where necessary, involves cooperation of host government authorities and a review by them of treatment accorded those governments in our federal capital.

(6) The Administration supported the general purpose of S. 2866 introduced by the Senate Foreign Relations Committee in the last session of Congress. The Administration did not,however, support the establishment of a separate corporate organization as proposed in that Bill, and supported instead the establishment of an Office of Foreign Missions within the State Department. The present version of the Foreign Missions Act (S. 854) has adopted the Office of Foreign Missions approach, which the Department believes is the best option to implement this legislation.

The specific requirement for certification of foreign missions which was contained in S. 2866 was not supported by the Department, and is not contained in the present legislative proposal before the Senate. That requirement could increase the complexity and cost of administering the Bill, without corresponding benefits in furthering the purpose of the legislation. The Department forsees in other respects the proposed Office of Foreign Missions performing essentially the same functions which would have been performed by the proposed Corporation under S. 2866.

(7) The statutory requirement proposed in S. 2866 that each foreign mission provide an inventory of properties for the Secretary of State has not been carried over into S. 854. Since the initial inventory would be a one-time requirement, it is the Department's position that this could appropriately be handled by a Diplomatic Note to all foreign missions, and that statutory authority to obtain the information is not necessary.

(8) A flexible standard will be necessary to assess reciprocity issues, in order to take into account the differing economic and political systems in which we encounter problems abroad the degree to which such problems may involve actions of host government authorities, and other bilateral issues which may effect reciprocity. The provisions of Section 11(c) of S. 2866 therefore would not have promoted effective administration of this Bill, or have resulted in an increased of benefits for the United States. It would not be consistent with the purpose of this legislation to limit the Secretaries authority to impose constraints on foreign government by requiring specific citation of reciprocity purposes.

(9) Following the introduction of S. 2866 during the last session of Congress, consultations between the Department and federal and municipal adminstrative bodies handling comparable proceedings indicated that a shorter period of four to five months was both feasible and more appropriate, in view of the

need to expeditiously resolve these issues. The Department has recommended therefore that the period to be allowed for such decisions be reduced accordingly.

(10) Authority presently exists under federal law to exercise eminent domain for federal purposes through the Department of Justice. However, the length of time involved in such proceedings and the need to obtain necessary appropriations would render this solution ineffective for the short-term, that is, anticipated chancery location requirements for the coming decade. Moreover, an adequate market appears to exist which would accommodate requirements of the majority of the foreign missions involved, if unnecessary restraints are removed from the ability of such nations to acquire premises for chancery purposes.

With regard to long-term solutions, the Department has entered into discussions with representatives of the District government concerning the possibility of space to be set aside for chancery purposes in planned future urban development areas proximate to the downtown district. In the event that such uses are compatible with urban development planning, the use of eminent determined authority could then be considered as a possible method of acquiring such property. The feasibility of such development however will not effect chancery locations for a substantial period of time.

(11) The terms of Section 206(b)(2) in S. 854 would require determinations on chancery locations to be based on a survey of actual existing land uses. In some areas of the city, land use patterns differ from the underlying primary zoning labels. For example, some areas such as the Massachusetts Avenue "Embassy Row" corridor carry an underlying zoning for lower density residential use, but also permit certain institutional uses, and in fact for many years have included (more than 50% institutional or other nonresidential uses including churches, non-profit associations, chanceries, etc.) Characterizing areas such as this as primarily residential contradicts the actual land use patterns. The requirement that determinations be based on actual land use patterns will facilitate a resolution of current problems, and aid in appropriate planning for chancery areas.

With regard to the Federal elements of the Comprehensive Plan, it was considered inappropriate to specify by statute a particular plan or zone, whether originated by federal or district agencies. The proposed legislation does not affect existing NCPC statutory responsibility to plan for the federal uses involved, but does set forth criteria to be employed in connection with such planning activities. The criteria are intended to assure appropriate balance between federal and municipal concerns, and in order to implement the purposes of this legislation should be required to be taken into account in any planning or zoning subsequent to its enactment.

(12) S. 854 recognizes the federal jurisdictional interest in foreign government activities within the United States, including chancery locations. Foreign government chancery facilities are for purposes of section 206 essentially anologous to federal facilities, although significant differences exist of course with regard to size, appropriate locations, security and other factors. A statute making federal agencies and chanceries identical for purposes of both planning and location decisions would work conceptually, and could lessen existing jurisdictional conflicts. S. 854 however would establish criteria for chancery decisions, and therefore significantly curtail the areas in which chanceries could locate as compared to federal offices, while assuring continued access to areas that are appropriate for security and representational purposes.

The Department supports the approach taken by S. 854 to repeal the so-called Fulbright Act as a necessary part of any resolution of this issue. A strict application of the criteria of that Act would have effectively precluded chanceries from being located in the only areas which are appropriate for such uses, which are mixed-use lower density areas. Chancery uses in most cases are lower density uses, which for security and related purposes would be most inappropriate for medium-high to high density zoned apartment or commercial areas. Such uses would not only result in a substantial underutilization of and loss of taxable property in higher density zoned areas, but the cost of such property even if available would be beyond the reach of more than 80% of the nations represented in Washington who are among the lesser-funded nations of the world. Use of larger commercial office buildings are for the same security and related reasons unacceptable.

The District of Columbia government in 1979 adopted legislation which would have extended the criteria of the Fulbright Act in a manner which would have impaired the federal interest, by leaving open for chanceries generally only those areas which are unacceptable for security reasons, such as higher density apartment and commercial office buildings. This led to the first Senate and House concurrent resolution of disapproval vetoing city legislation, since the adoption of the Self-Government Act.

(13) The Department has had continuous contact with representatives of the District government concerning the issue of chancery locations since 1976, when the proposed Foreign

Missions element of the Comprehensive Plan was taken up by the National Capital Planning Commission. Views of the District and the Department were exchanged repeatedly during continuous hearings on that element of the Comprehensive Plan until its adoption in 1977, and thereafter during proceedings before the District's Zoning Commission in connection with the adoption of implementing regulations in 1978. Subsequently, representatives of the Department and the District have testified on this subject before both House and Senate Committees, and we believe the views and concerns of each have been fully expressed to the other. In fact, at the request of the Chairman of the House District Committee during a recent hearing on H.R. 3518, which contained the House version of the proposed Foreign Missions Act, representatives of the Department and the District government again met and thoroughly reviewed these issues.

As a result of this exchange of views, a compromise amendment to Section 206 was offered on the House floor and approved without objection. Although H.R. 3518 was subsequently rejected by the House on nonrelated issues involving FY-1983 budget limitations, a similar bill (H.R. 4814) has been adopted by the House containing the compromise version of Section 206. This compromise would establish a new Foreign Missions Commission of the District of Columbia. Jurisdiction over the location of foreign missions would remain under this compromise in the District government, subject to the Comprehensive Plan element adopted from time to time by NCPC, as authorized under existing law.

(14) The Department maintains chanceries and other official United States government facilities in over 250 posts abroad, and problems which have arisen necessarily vary widely both as to cause and degree of difficulty. It is therefore difficult to rank order the problems encountered on a general basis. Information submitted to you previously concerning land use practices in selected countries abroad contains information that we believe will be relevant to your request. We would be pleased to review specific country cases with you at your convenience.

(15) The Department is not involved in all land use applications of foreign governments, and therefore does not generally maintain records of chancery applications before the Zoning Administrator, the Zoning Commission, or the Board of Zoning Adjustment. Testimony and data concerning such applications were provided by District representatives in Hearings on S. 854 before the Foreign Relations Committee. The Department, in its testimony on this subject, noted that significant problems arose only after the adoption of the existing District Zoning Regulations in 1978, and the adoption by the District of chancery legislation in 1979 which was vetoed by Congress.

Several major chancery cases were decided after issuance of the 1978 District regulations, and were of considerable concern to the diplomatic community and to this Department. These cases involved proposed new or expanded chancery uses on or adjacent to the Massachusetts Avenue "Embassy Row" area. The applications were directly denied in two cases and delayed for a substantial period in the third, which has resulted in the withdrawal by a number of foreign missions of proposals to obtain approval for necessary chancery locations until the position of the United States government on this matter has been clarified.

(16) The Department of State has not been a party to any litigation in the District concerning chancery land use applications. The application of one government for use of its property directly on Massachusetts Avenue for chancery purposes was subject to judicial process, resulting from its consieration by the Board of Zoning Adjustment. While the Board of Zoning Adjustment ultimately issued an order in favor of the applicant government, the probability of further judicial proceedings has caused that government to withdraw from its planned use of the property, pending a resolution of issues such as this now before the Congress.

(17) The Department does not construe any provision of S. 854 as rendering nonappealable any decision on chancery locations under the provisions of the Bill, nor would the Department support such a provision. Decisions of the administrative body empowered to rule on chancery locations under the provisions of S. 854 will be subject to judicial review as are such decisions under present regulations.

(18) The Department has been notified of the position taken by the Planning Commission concerning Section 206 of S. 854. A compromise Section 206 recently adopted by the House as part of H.R. 4814 (a substitute Bill for H.R. 3518) could obviate the concern expressed by NCPC, by retaining decisional jurisdiction in the District of Columbia.

In the event that the compromise Section 206 is not acceptable to the Senate, the Department is prepared to explore further alternatives with representatives of the District in order to achieve a balanced process which will fully reflect federal as well as municipal concerns. This does not mean, however, that the Department now rejects Section 206 as originally proposed in S. 854. It remains the Department's view that the balanced municipal and federal representation on NCPC, combined with the existing NCPC statutory responsibility for planning for foreign mission locations, renders that agency a suitable organization in which to vest such authority. The need in any event to change the existing process clearly remains, in order to achieve a proper balance between the federal and municipal governments concerns.

In conclusion, we believe that the proposed Foreign Missions Act contains authorities which will strengthen our national security and which we believe will send a new and needed signal to the many countries with which the United States maintains official relations. We would welcome the opportunity to meet with you to explore these issues fully.

Sincerely,

Richard Fairbanks
Assistant Secretary for
Congressional Relations

[From the Washington Post, July 29, 1981]

BARRED FROM D.C., LIBYA OPENS OFFICE IN McLEAN

(By Thomas Grubisich)

The Libyan government, which was booted off Washington's Embassy Row this spring, has opened an office in suburban McLean, using funds that the African nation channeled through a Virginia corporation, a lawyer for Libya said yesterday.

The attorney, Richard C. Shadyac, said the office, which occupies an entire three-story building not far from the McLean Post Office, is handling only the affairs of the 4,000 Libyan students who were permitted to remain in America after the State Department ordered the country's diplomats to leave Washington in May.

"There is nothing mysterious, nothing illegal," Shadyac said. "I have kept the State Department informed."

But at the State Department, officials seemed uncertain about the new office. "The whole thing is under intense discussion," a spokesman said. "We're not quite sure what's going on."

Standing under a color portrait of Libyan leader Col. Muammar Qaddafi in the lobby of the Virginia office, spokesman Mohammed Ayeb offered the same explanation as Shadyac. "It's only for students," he said. "We can't tell you anything else."

Shadyac, who offered more details in an interview last night, said: "I have coordinated totally with them [the State Department]. The old mission was the disbursement agent for the Libyan students and their dependents, paying all their living costs. The void had to be filled."

Shadyac said the office is funded by a nonprofit corporation he established under Virginia law for the Libyan government, and expressed annoyance at the State Department's reaction. "I have kept the State Department totally advised. It is a disservice to the American people to suggest otherwise. The problem is that the State Department has changed Libya desk officers in midstream. No one from the State Department has called me in the past few days."

The State Department spokesman said it would issue a more detailed statement on the office today. "We're addressing this right now," he said.

Shadyac said that Abdullah Al-Masri, the U.S. representative of Libya-Oxy, the Libya company that deals with Occidental Oil and Gas Co., helped to establish the McLean office. The 12,000-square-foot space was leased from Office Space Management Inc. in Fairfax City, which owns the building and two similar ones next door.

"It beats me," said Office Space leasing agent Gregory A. James when asked if he knew what the purpose of the office was.

James wouldn't say what the Libyan corporation is paying to rent the building, but individuals familiar with rents in the Fairfax County community estimated that such a building would cost about $140,000 a year to lease.

Shadyac said he didn't know how many people would work in the office, but said all would be students and their ages would range from the mid-20s to mid-30s.

A secretary to Al-Masri said the office would have 40 workers.

At present, the United States and Libya have no diplomatic relations. Washington has been trying to establish limited contacts, but the Libyans, according to the State Department, have been insisting on broader relations.

Washington closed the Libyan mission because of what it called "Libyan provocations and misconduct, including support for international terrorism." Earlier two Libyan diplomats were expelled after the State Department accused them of distributing literature to Libyan students here calling for the assassination of Qaddafi opponents.

[From the Washington Post, July 30, 1981]

U.S. WON'T OBJECT TO OFFICE LIBYA OPENED IN McLEAN

The State Department said yesterday it will not object to the office the Libyan government established in McLean—2½ months after the department ordered the African country's diplomatic mission out of Washington.

"There can be no question of this office performing diplomatic functions and we have no indication it is doing so," department spokesman Dean Fischer said.

The Libyan government's attorney, Richard C. Shadyac, said he helped to establish the office so that country could continue to care for the 4,000 Libyan students who are in the United States. Shadyac had said the office would carry out no diplomatic functions, and was angered that the department had appeared on Wednesday to question the office's function.

The McLean office, which occupies all 12,000 square feet of a three-story building not far from the Fairfax County community's post office, is staffed by a group called The People's Committee for Students of Libyan and Arab Jamahariya Inc., a nonprofit Virginia corporation that Shadyac said he organized.

The U.S. government closed down the Libyan mission in Washington this spring because of what it called "Libyan provocations and misconduct, including support for international terrorism."

[From the Washington Post, June 1982]

NEIGHBORS SEEK RENOVATION OF NIGERIA'S EX-CHANCERY

(BY ROBIN GRADISON)

In the midst of a well-kept neighborhood of renovated town houses and historic landmarks near Scott Circle stands the old Nigerian chancery, an eyesore, a health hazard and a nuisance, according to the complaints of its neighbors. Both the federal and District governments have expressed their concern over the situation.

The century-old five-story Victorian house at 16th and O streets NW has been empty since the Nigerian Embassy vacated it in 1974, although there have been several offers to rent or buy it as well as repeated efforts by civic and preservation groups and government officials to have it renovated and occupied.

The Nigerian government bought the building in 1965 and used it to house its information and visa application offices. The government now rents office space at 2215 M St., near its embassy at 2201 M Street NW.

"There is a large amount of rotting rubbish piled deep in the rear yard. Many windows are open both to the weather and to vandals. Vandals continue to strip the building of all of its architectual elements," wrote Charles Robertson, chairman of the preservation group, the Dupont Circle Conservancy, in a letter to the State Department two years ago. It is "not only an eyesore, but a serious health, fire and security problem for the neighbors," he added.

The former chancery's condition has deteriorated further since then. A Nigerian official who came to Washington in January lamented that "the building has been so much cannibalized."

For the last five years, attempts to persuade the Nigerians to restore and rent the building or board it up against vandals have been made by the D.C. Bureau of Community Hygiene, the Dupont Circle Citizens Association, Don't Tear It Down, the Dupont Historic Preservation Committee, the Joint Committee on Landmarks, and the Dupont Circle Advisory Neighborhood Commission (2B), among others. Several groups have offered to buy and renovate the building, including Cornell University, the law firm of Ingersoll & Bloch (whose office is across the street) and the Historic Development Corporation of Philadelphia.

At a recent meeting about the building with State Department officials in the Office of Protocol, the Nigerian embassy's Head of Chancery, L.O.C. Agubuzu, reiterated his government's intention to retain possession of the property. According to a State Department official, he presented four options being considered for it, including a proposal to lease it out.

Another Nigerian official at the embassy disputed the rental proposal, however. "Why would we do that when we are already renting space on M Street?" he asked. "We will not rent it out to anyone else; we will use it for our annex offices."

A Nigerian embassy spokesman said his government in Lagos has been asked for funds to renovate the building, but so far has given no definite response.

Although the building has been secured several times, it has frequently been broken into. One neighbor said he took an unauthorized tour inside and found that the ornate mantles on the walls and the columns which once stood in the gothic library had been removed. Another curious neighbor said he saw discarded visa applications and other trash piled so high in one of the fourth-floor rooms that he and others complained to the fire department. Furniture had been removed and the building had some serious structural damage, said the man, who asked not be identified.

Two weeks ago the five-story building was again secured, with sheets of plywood nailed over all its windows and doors against both vandals and the weather, at the request of the State Department Office of Protocol.

Ernest Harper, Chairman of the Joint Committee of Historic Landmarks, was encouraged by the progress. "At least the building is safe from the elements as well as from intruders," he said. He added that Nigeria is under a severe financial strain and may not be able to rehabilitate the structure.

Although the chancery building is owned by Nigeria, it is not considered foreign soil because it is located in the historic district of 16th Street, which runs from Scott Circle to Florida Avenue. It is subject to the district's building codes concerning historic preservation.

In April of 1979, the Dupont Circle ANC, which represents approximately 18,000 Dupont Circle residents, unanimously voted to prevent demolition of the building. Even without that vote, however, the building would have been protected from demolition by its historic status: since 1978, it has been listed on the National Register of Historic Places.

According to Richard Gookin, Associate Chief of Protocol at the State Department, the Nigerians a few years ago had planned to renovate the building and construct a taller facility around it for use by their growing staff. But in June of 1979, the city zoning board lowered the maximum height allowance from 90 to 65 feet. The Nigerians then tabled plans for both the construction and the renovation.

Built for $28,000 in 1881 as a private residence and remodeled in its present gothic style by George O. Totten in 1915, the mansion served in the 1930s as the Persian, and later the Venezuelan, legation. It was again a family home before Nigeria bought it in 1965.

Charles Robertson, who is also associate administrator of the American Museum of American Art, is skeptical that the Nigerians will do the work. "This is their story now," he said. "It has been their intention for seven years to fix it up. Maybe in another few years it will fall down . . . ."

THE LIBRARY OF CONGRESS
WASHINGTON, D.C. 20540

OFFICE OF THE
LAW LIBRARIAN OF CONGRESS

REF: LLS 81-969 & 81-1193

Attention: Marion Morris

Dear Senator Mathias:

The staff of the Law Library has researched local zoning in selected world capitals and its relationship to foreign governments wishing to locate chanceries, missions, and embassies there. This is in response to your May 5 request addressed to Mr. Gilbert Gude, Director of LC's Congressional Research Service, and the specific questions posed therein.

The enclosed reports on Canada, the Federal Republic of Germany, France, Guatemala, Hong Kong, India, Italy, Japan, Mexico, The Netherlands, Panama, the People's Republic of China, Portugal, Switzerland, the United Kingdom, the USSR, and Venezuela cover available information concerning your questions regarding diplomatic reciprocity in locating foreign chanceries, missions, and embassies. No information on this subject can be located in the Law Library for Middle East and African countries.

Please let us know if we can be of further assistance.

Sincerely,

Carleton W. Kenyon
Carleton W. Kenyon
Law Librarian

Enclosures

Honorable Charles McC. Mathias, Jr.
United States Senate
Subcommittee on Governmental
Efficiency and the District
of Columbia
6222 Dirksen Building
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OTTAWA, CANADA

The City of Ottawa, which has a population of approximately 300,000, has been the capitol of Canada since Confederation in 1867. The city lies entirely within the Province of Ontario and has its own municipal government. The laws and policies relating to the locating and operations of embassies and chanceries are as follows:

1. Zoning laws. Under the authority conferred upon it by the provincial government, the City Council of Ottawa has enacted zoning by-laws setting out rules for the construction, location, maintenance, and use of buildings in the city. These planning regulations provide that all public buildings must be located in those areas designated as the "G" zones. Generally speaking, these areas encompass the extensive federal lands along the Ottawa and Rideau Rivers which flank the city as well as the downtown core located directly across from the Parliament and Supreme Court Buildings.

2. Applicability of Municipal By-Laws to Foreign Embassies and Chanceries. Chanceries, the offices of foreign governments, and embassies, the residences of ambassadors, are subject to the general by-laws of the City of Ottawa, instead of being exempted or subject to a special set of rules. Thus, in constructing, expanding, or using a building foreign countries are required by law to follow the municipal rules. For example, a chancery must be located in a "G" zone under the Ottawa by-laws. However, while they are subject to the municipal laws, the city has no means to enforce compliance as Canadian courts would respect the doctrine of sovereign immunity. In fact, there have been several publicized cases in which foreign countries have broken the by-laws without suffering any consequences for their actions. For example, several

Eastern European countries have erected high fences around their buildings that are of a type not permitted by the local by-laws. Furthermore, several countries have opened up combined chanceries and embassies that are located outside of the "G" zones. Nevertheless, all of the major developed countries have complied with the local zoning laws and, in practice, have located their chanceries near the downtown area and their embassies in the neighboring suburb of Rockcliff Park. Under Canadian law, both one chancery and one embassy are exempted from paying local taxes.

3. Local Government. The City of Ottawa has a City Council made up of 16 members, including a mayor, who serve two-year terms. The municipal government must approve all changes to the local by-laws. In formulating its policies, the City Council is assisted by four standing committees. The administration of the by-laws is overseen by the Administration Policy and Priority Board, (formerly the Board of Control).

4. Federal Approval of Building Sites. There is no provision in any statute or regulation of the federal government that requires foreign governments to obtain approval to seek and build on a site. However, in a booklet on Privileges Granted to Diplomatic and Consular Representatives in Canada, the Department of External Affairs, (which corresponds to the Department of State in the United States), has stated its policy as follows:

> Purchase and Sale of Land and Real Properties
>
> No foreign government should buy or commit itself to buy land and/or real property in Canada without the previous concurrance of the Government of Canada. When asking for concurrance, the missions are requested to indicate where the property in question is located and for what purpose it will be used. If the property is situated in the Ottawa-Hull area, and if it is to be used as the official residence of the Head of Mission or for chancery purposes, the Government of Canada will normally

> give its immediate concurrence provided that the use to which the property will be put is not in contravention of the zoning laws of the municipality concerned. When it gives its concurrence to the purchase of property to be used as the official residence of the Head of Mission or for chancery purposes, the Government of Canada will, on the basis of reciprocity, provide exemption from municipal and school taxes. The exemption applies from the time the foreign government takes physical possession of the property in question and the former occupants leave the premises. (It is not possible for the Government of Canada to provide reimbursement of taxes prepaid by vendors of property sold to foreign governments. The parties concerned should therefore take this factor into account during the negotiations leading to the purchase of the property). [1]

Thus, the federal government does have a policy of requiring approval before foreign countries may purchase land and build a chancery or embassy. If a foreign government were to fail to obtain approval, the government would have no recourse to the courts; however, it might seek to block the transfer of title or make a diplomatic protest.

5. Construction of Buildings. In Ottawa, permits are required under the by-laws for any construction or expansion of a building. In reviewing the application, the zoning commission does assess the appropriateness of the proposed structure and will make recommendations for changes to be made. For example, the recently completed Embassy of Japan was the subject of many negotiations between the local government, the National Capital Commission (representing the federal government), and the Government of Japan as the Canadian authorities did not feel that the original proposals were compatible with the area.

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[1] Canada, Department of External Affairs, Privileges Granted to Diplomatic and Consular Representatives in Canada and General Information Booklet 15-16 (Ottawa, 1979).

6. Purchases of Land. Historically, most chanceries and embassies in Ottawa were built on lands purchased from the federal government as foreign nations wished to be located fairly near one another and close to the main government buildings. For example, the United States Embassy is presently located directly across the street from Parliament Hill. (The United States, however, has agreed with the Government of Canada to exchange this property for another that is larger but farther away from the downtown core). Thus, the federal government has traditionally assisted foreign countries in finding a site and has sold property to those countries. In the past several years, however, the federal government has stopped selling federal lands and begun leasing properties for 99 year terms. The reason for this is that there were protests in Canada against foreign owenrship of lands along the rivers.[2/]

7. Embassies and Chanceries. As was mentioned previously, most developed countries have separate embassies and chanceries in the Ottawa region while several developing countries have a combined mission.

8. The National Capital Commission. In 1959, the federal government established the National Capital Commission which is responsible for the acquisition, development and maintenance of public land in the capital region. The members of this Commission are appointed by the Government of Canada and represent each of the provinces. When a foreign country wishes to establish a chancery or embassy on federal lands, the Commission reviews the suitability

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[2/] Information obtained from the Department of External Affairs, Ottawa.

of the site and the appropriateness of the architectural plans in conjunction with the municipal authorities. This often leads to negotiations between the Commission and foreign governments, as was the case with the new Embassy of Japan.

9. Security. In Ottawa, the Protective Control Branch of the Royal Canadian Mounted Police and the Ottawa Municipal Police both provide security for embassies and chanceries. There have been no notable attacks on any foreign missions in Canada though, of course, many embassies have been the scene of political demonstrations.

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May 1981

FEDERAL REPUBLIC OF GERMANY

Responses to questions 1-11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1:

In the Federal Republic of Germany, land use is regulated by zoning. Federal law provides the framework of rules governing the issuance of zoning plans but directs the local governments to actually issue them.[1/]

Question 2:

Foreign governments are required to comply with the local zoning laws in locating, building, expanding, or modifying their missions. This conclusion is reached from the general applicability of the zoning laws and the absence of any statutory pronouncements exempting foreign governments. Also, there is no legal literature indicating that the Vienna Convention on Diplomatic Relations[2/] is construed in the Federal Republic to afford immunity from the application of zoning laws.

Question 3:

In Bonn, the agency in charge of zoning issues is the Council of the City of Bonn (Rat der Stadt Bonn). The Council is elected by popular vote for

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[1/] Secs. 1 through 13, Bundesbaugesetz [BBauG] in the version of August 18, 1976, Bundesgesetzblatt [BGBl., official law gazette of the Federal Republic of Germany] I, p. 2256.

[2/] 23 U.S.T. 3227; T.I.A.S. 7502; 500 U.N.T.S. 95.

a period of 5 years, and it is the government of the city of Bonn.[3] Zoning plans issued by the Council must be approved by the Land Nordrhein - Westfalen (one of the constituent states of the Federal Republic) through the *Regierungspräsident Köln*, who is the official in charge of the district of Cologne.[4] Whenever zoning laws are issued or changed, advance notice must be given to the population in accordance with Federal law, and concerned persons are given an opportunity to voice their objections.[5] Aside from the general zoning plans, which may restrict office buildings from residential areas,[6] foreign missions are not restricted by Bonn zoning law to particular locations.[7]

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[3] Secs. 27-56, Gemeindeordnung für das Land Nordrhein-Westfalen in the version of December 19, 1974, *Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen* [GVNW, official law gazette of Nordrhein-Westfalen] p. 91/1975.

[4] Sec. 8, Landesorganisationsgesetz vom 10. Juli 1962, GVNW, p. 421/1962. For the practice in Bonn, *see*, for instance, the Promulgation of January 14, 1972, *Amtsblatt der Stadt Bonn*, p. 19/1972.

[5] Sec. 2, BBauG.

[6] Zoning plans are not published, but they can be viewed by anyone in the city's surveying office: *see supra* note 4, Amtsblatt.

[7] No such restrictions were found in local, land, or Federal law. Although the local laws of Bonn could not be reviewed completely (of the volumes issued since 1949, only the years 1972-1976 are available in the Library of Congress), officials at the Embassy of the Federal Republic of Germany state that no such restrictions exist.

Question 4:

There are no legal provisions indicating that a foreign government must be recognized or obtain special certification before being permitted to seek a site and to build on it.[8/]

Question 5:

A building permit from the City of Bonn is required for any construction, modification, expansion, change of use, or demolition of a building.[9/] The application for the permit must contain all the required documents and information, and the permit will be granted if it complies with all the legal requirements.[10/] These legal requirements are manifold: they cover zoning, environmental, safety, and other aspects and are contained in more than 1,000 legal provisions found in more than 100 statutes, ordinances, etc., and in over 100 industrial standards.[11/] The application and all the documents submitted must be in German.[12/]

[8/] Information obtained from the German Embassy indicates also that such requirements do not exist.

[9/] Secs. 76-77, Bauordnung für das Land Nordrhein-Westfalen in the version of January 27, 1979, GVNW, p. 96/1970.

[10/] Id., secs. 80-92.

[11/] K. Walper, Einführung in das Bauordnungs- und Bauplanungsrecht 56 (Wiesbaden, 1977).

[12/] Sec. 23, Verwaltungsverfahrensgesetz vom 25. Mai 1976, BGBl. I, p. 1253.

Question 6:

The Federal Republic does not purchase property for purposes of reselling or leasing it to foreign governments.[13]

Question 7:

The preponderant majority of embassies and chanceries are located in the Bad Godesberg district of the City of Bonn.[14]

Question 8:

The agency in charge of assisting foreign governments in the location and establishment of their missions is the Protokoll des Auswärtigen Amtes (Office of the Protocol of the Federal Ministry of Foreign Affairs).[15]

Question 9:

Information not available.[16]

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[13] Information obtained from the German Embassy.

[14] Id.

[15] 1 Die Bundesrepublik Deutschland. Staatshandbuch 62 (Köln, 1977).

[16] Officials at the German Embassy indicate that security issues regarding the location of foreign missions may be handled in informal consultations between the Office of the Protocol, the foreign government, and the police. Although incidents involving the security of foreign missions have occurred in the past, an account of them is not available either in the sources of the Library of Congress or of the German Embassy. Such information possibly might be obtained by a request made through diplomatic channels.

Question 10:

Information not available.

Question 11:

Not applicable.

Prepared by Dr. Edith Palmer
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Law Library, Library of Congress
May 1981

FRANCE

Responses to questions 1-11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1:

Land use in France is regulated through zoning laws of national application within the Code de l'urbanisme.

Question 2:

Foreign governments are required to comply with local zoning regulations in locating, building, expanding, or modifying their chancery, mission, or embassy.

Question 3:

The members of local zoning commissions in France are appointed for unspecified terms. Chanceries or foreign missions are not restricted to certain parts of Paris.

Question 4:

Information not available.

Question 5:

Foreign governments must obtain a local building permit for the location, construction, modification, or expansion of their chancery, mission, or embassy. The application for the building permit must include a description of the intended site and the building plans in the French language.

Question 6:

France does not deal in real estate transactions, but it will assist foreign countries in acquiring land or suitable space for purchase or in locating premises for chancery, mission or embassy purposes.

Question 7:

It is neither common practice nor required by law for chanceries and embassies to be located in the same vicinity rather than in separate locations in Paris.

Question 8:

The French Government does not have a special commission or agency to handle the location, expansion, or modifications of foreign missions. This is within the responsibilities of the Foreign Office.

Question 9:

France has the duty to protect diplomatic buildings, but no particulars are available. Insofar as is known, there are no defined areas for protecting at least the business activities of foreign governments, as is the case under the Executive Protection Service in Washington, D.C.

Although there have been demonstrations and attacks in Paris involving chanceries and embassies, no information regarding them is available. Whether these incidents have led to changes in the security protection of diplomatic buildings is not known.

Question 10:

Information not available.

Question 11:

Not applicable.

Prepared by Members of the Staff
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May 1981

GUATEMALA

Congressional Decree 616 of May 7, 1948, on the Acquisition of Urban Property for Diplomatic Residences[1] contains the following provisions relating to the premises of foreign missions:

> Art. 1. Foreign states and other entitities having internationally recognized legal status may, with the authorization of the Ministry of Foreign Affairs, acquire real estate in Guatemala for the exclusive purpose of using it as the official premises of their permanent diplomatic missions accredited to the Government of the Republic and may similarly acquire a residence for the chief of their missions.
>
> Art. 2. It shall be optional for the Ministry of Foreign Affairs to grant or refuse the authorization mentioned the the above article. The requesting foreign state shall guarantee reciprocity for the State of Guatemala to acquire real estate in the requester state's territory for the same purpose.
>
> Art. 3. The Registrar of Property shall not record any transaction in favor of a foreign state or international organization without previously having a transcript of the resolution in which the Ministry of Foreign Affairs grants the authorization.
>
> Art. 4. This Decree repeals all other provisions on this matter and shall be in force from the date of its publication in the official gazette.

No other specific provisions in regard to the acquisition, building, and zoning regulations for the premises of foreign missions under Guatemalan law have been found other than those general provisions of the Municipal Code of December 17, 1975,[2] which entrusts urban development to municipalities, in all aspects regarding zoning, building permits and plans.

1/ El Guatemalteco, June 27, 1949.

2/ Constitución, Códigos y Leyes de la República de Guatemala 1277 (1 ed. Editorial Gomez Robles, 1981)

The building regulations of Guatemala City adopted on April 10, 1970,[3/] established the general provisions regarding construction in Guatemala City. The mayor and all other members of the municipal corporate government are elected by direct and popular vote.[4/]

The long history of political violence in Guatemala has also touched foreign diplomatic missions in recent years. In 1968, the United States Ambassador to Guatemala, John Gordon Mein, was assassinated, and in a more recent episode, Spain broke diplomatic relations with Guatemala after Guatemalan police stormed its embassy to evict the occupying Guatemalan citizens in January of 1980.

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May 1981

HONG KONG

The Consular Relations Ordinance of Hong Kong, promulgated in 1970,[1] gives effect in Hong Kong to the Vienna Convention on Consular Relations, and in addition enables effect to be given there to other agreements entered into by the Government of the United Kingdom concerning consular relations, Hong Kong being a British Crown Colony.

1. Land use in Hong Kong is regulated by the Governor in Council with the advice of the Town Planning Board, according to the Town Planning Ordinance of 1939, as amended from time to time up to the present.[2] The Board is empowered to make provisions for zones or districts set apart for use for residential, commercial, industrial or other specified uses, and prepares draft plans for urban areas. Upon the submission of such draft plans to the Governor in Council, he may approve them, refuse to approve them, or refer them to the Board for further consideration and amendment.[3]

2. Nothing in the Consular Relations Ordinance nor in the Town Planning Ordinance indicates that foreign governments would be exempted from complying with local zoning laws in locating, building, expanding or modifying their buildings in Hong Kong. No further information on this

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[1] 15 Laws of Hong Kong, ch. 259 (rev. ed. 1970).

[2] 8 Laws of Hong Kong, ch. 131 (rev. ed. 1974).

[3] S. 3, *id*. at 2.

question could be located in any other source.

3. The Town Planning Board, the body responsible for urban planning in Hong Kong, is appointed by the Governor.[4] In 1979, it consisted of fifteen members, seven of whom were appointed *ex officio*, and the rest personally. The term of the appointments was not stipulated.

4. No information is available on this question.

5. Certain approvals are required of all individuals or bodies seeking to construct new buildings in Hong Kong. The Buildings Ordinance of 1955, as amended up to the present time, requires approval and consent to be obtained from the Building Authority before commencement of construction work.[5] The Building Authority, defined in the ordinance as the Director of Public Works, gives its approval in the prescribed form of documents submitted to it in accordance with the regulations in force, and its consent in the prescribed form for the commencement of the building work shown in the approved plan. Such approval and consent are deemed to be given unless the applicant is notified of the Building Authority's refusal.[6]

6 - 10. No information is available on these questions.

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[5] 7 *Laws of Hong Kong*, ch. 123 (rev. ed. 1974), s. 14, p. 17.

[6] S. 15(1), *id*.

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MSS:mss
5/27/81

INDIA

Every foreign government, recognized by the Government of India, may establish its chancery, embassy or any mission in New Delhi, the capital of India. Once the foreign government or its accredited representative makes a request for locating its diplomatic premises at a particular site, the host government will attempt to either acquire the site or building premises, if it is available, or allow the foreign mission to negotiate on its own directly with the private owner.

Specific answers to the questions have been provided in the same order:

1. Land use is not regulated by the local government. It is, in fact, regulated by the Government of India through an independent statutory corporate body, the Delhi Development Authority.[1/] This Authority prepares the master plan for the city having different zones for which separate zonal development plans are prepared.

2. There is no specific exception in the statute or the provisions of zonal development plan excluding the foreign governments from complying with the requirements of the plan in erecting their building premises, or in expanding or modifying them. The building must follow the use earmarked in the zonal development plan. However, a chancery may take on lease any premises from a private owner after approval of the host nation.

3. A zonal development plan is prepared by the Delhi Development Authority, a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract in its name.

1/ The Delhi Development Act, 1957, No. LXI, § 3.

It can sue and be sued. It is a statutory agency, and as the composition of its membership would disclose, it is controlled mostly by the nominees of the Government of India in such a manner that shows that the host government retains control of it. The composition of the Authority is as follows:[2/]

(a) The administrator of the Union territory of Delhi is the chairman of the Authority. He is a civil servant of the government.

(b) The following four members are also appointed by the Central Government:

(i) a vice chairman,
(ii) a finance member,
(iii) an accounts member, and
(iv) an engineer.

They hold office during the pleasure of the government and may be removed any time.

(c) Two representatives of the Advisory Committee of the Union territory of Delhi constituted by the Government of India. They hold office so long as they are members of the committee.

(d) Two representatives of the Municipal Corporation of Delhi elected by the councillors and aldermen of the Corporation from among themselves. Basically they are elected for a term of 4 years and are eligible for reelection.

(e) Three other members are nominated by the Central Government. One of such nominees must be a person with experience in town planning or architecture.

(f) The Commissioner of the Municipal Corporation of Delhi.

[2/] Id. § 3(3).

4. A foreign government, to be able to establish its diplomatic premises, must be recognized by the host nation before it can seek a site and build on it.

5. No person, including a foreign mission, may erect a building or commence its erection or execute any of the appurtenant works except with the previous sanction of the Commissioner of the Delhi Municipal Corporation, nor otherwise than in accordance with the by-laws enacted in relation to the erection of buildings or execution of works.[3/] A written notice in the prescribed form must be given to the Commissioner of the Corporation before commencement of any works and the notice must be accompanied by a plan signed by a licensed architect or engineer.[4/] The fees payable in respect thereof are nominal.

6. The government may either acquire the required site for the use of the foreign government or allow it to obtain the site on lease.

7. It is not necessary for chanceries and embassies to be located together. It is a choice of the foreign government.

8. The Division of Protocol of the Ministry of External Affairs of the Government of India receives and deals with all requests of the foreign governments in this regard.

[3/] The Delhi Municipal Corporation Act, 1957, No. LXVI, § 333.

[4/] The Delhi Municipal Corporation Building By-Laws, No. 6.

9. Protection of diplomats' lives and the property of foreign governments play a major role in planning the locations of foreign missions. At present, the principal chanceries are located within the exclusive Diplomatic Enclave where there is hardly any density of population. Consequently, demonstrations are infrequent and visitors can be more easily screened. Even though a mission is free to choose its area of location, permission is not generally given for its location in certain areas where the population is dense.

10. The approval time range is very variable. It may depend on the time period for acquisition and also in negotiations with owners.

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May 1981

ITALY

Responses to questions 1-11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1:

Land use in Italy is regulated by laws of national application, especially by the Law of August 17, 1942, No. 1150, as amended by the Law of August 6, 1967, No. 765. It regulates building processes on national, intercommunal, and local levels.

Question 2:

Foreign governments have to comply with the existing building regulations.

Question 3:

Building commissions are appointed and are under the control of the particular city, in this case Rome. All licenses to build, expand, etc., are issued by the city under the authority of the mayor. Foreign missions are not restricted to any particular part of the city.

Question 4:

Since private persons may own land and build on it, any government can build as a private person.

Question 5:

A local building permit is issued under consideration of all aspects of the proposed building, including the architectural merit of the design and proper zoning. No other permits are required.

Question 6:

The Italian government does not interfere with the acquisition of space, buildings, or premises by foreign governments for their missions. It will assist foreign governments in obtaining building space or premises for purchase or lease.

Question 7:

Foreign missions are free to reside anywhere throughout the city. Foreign missions in Rome are scattered all over the city.

Question 8:

Not known.

Question 9:

Not known.

Question 10:

The mayor of any Italian city has to grant or refuse a building permit within 60 days from the request (art. 31, Law of August 17, 1942, No. 1150, as amended). Although no special delays are to be expected, there is always an uncertain time element in the bureaucratic process.

Question 11:

Not applicable.

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Law Library, Library of Congress
May 1981

JAPAN

1. Land use in Tokyo is regulated by the Tokyo Metropolis Government under the City Planning Law, the Building Standards Law, and various metropolitan ordinances and regulations.

2. Any foreign government desiring to obtain a location for, build, expand or modify its chancery or embassy is required to comply with those parts of the above laws, ordinances and regulations that deal with zoning. Under the City Planning Law, Tokyo Metropolis is divided into eight types of zones: (1) the first class exclusivly residential zone (largely in the suburban area); (2) the second class exclusivly residential zone (usually in the vicinity of the city where railways or subways are easily accessible); (3) the residential zone (where residences and stores or small-scale factories are scattered along principal highways and in commercial and industrial areas); (4) the neighborhood commercial zone; (5) the commercial zone; (6) the quasi-industrial zone; (7) the industrial zone; and (8) the exlusivly industrial zone.

The location of residences, apartment buildings and residence/offices (foreign chanceries and embassies fall into this category) is permitted in all zones except the exclusively industrial zone. In the first class exclusively residential zone, the height of buildings cannot exceed 10 meters unless an exception has been approved by the governor. The allowable height of the buildings in other zones is determined by a formula based on the ratio of the building's aggregate floor space to its plottage, but restrictions on height may be imposed in certain designated areas for reasons including the amount of shadow and sunshine. For residence/offices, the office space must be less than half of the residential space, and the total floor space of the office area cannot exceed 50 square meters. Exceptions to this rule may be approved by the governor. The location of foreign missions is not restricted to certain parts of the city.

3. Zoning regulations are administered by the governor of Tokyo. Tokyo does not have any organ equivalent to the zoning commissions that one finds in the United States. The Tokyo Metropolis City Planning Council is an advisory organ established within the Tokyo Metropolis Government to assist the governor with matters relating to overall city planning, including zoning. The council consists of 35 members who are appointed by the governor.

4. Under the Cabinet Order Concerning the Acquisition of Real Property and/or Rights thereto by Foreign Governments, any foreign government that has been specified by the Ministry of Finance and that maintains normal diplomatic relations with Japan may acquire or lease land, buildings or accessories to such property without special permission from the Ministry of Finance. As of 1978, 143 countries had been specified by public notice issued by the Ministry of Finance. Any foreign government that has not been specified by Japan's Ministry of Finance,however, must obtain permission from the Minister of Finance to acquire or lease land, buildings or accessories thereto.

5. Any foreign government which intends to build, modify, expand, or undertake large-scale repairs or remodeling of buildings, must submit a written application giving evidence that its construction plan conforms to the provisions of the Building Standards Law and Tokyo ordinances and regulations. Both the governor and the building officer

of the Tokyo Metropolis government must confirm the application prior to the commencement of construction. The applicant must pay a fee proportionate to the aggregate floor space of the proposed construction as provided by a Cabinet Order.

The building officer shall not grant confirmation unless he has obtained the consent of the Fire-Inspector having jurisdiction over the construction work.

6. Any foreign government which has no diplomatic relations with Japan and has not been specified by the above Cabinet Order cannot directly contract with a private owner (including those persons possessing rights to real property) for the acquisition or lease of property. Although such foreign government may negotiate and reach prior agreement with the owner as to price, rent, or other terms of the transaction, the Japanese Government must act on the behalf of the former in acquiring and leasing real property from the owner. Pursuant to the prior agreement, the foreign government must apply for validation from the Minister of Finance. Upon granting the validation, the Minister of Finance acquires the title or the lease to the real property from the owner and then transfers or subleases the real property or rights thereto to the foreign government. However, such foreign government can acquire government-owned property directly from the Japanese Government with the approval of the Minister of Finance.

7. Japanese law does not require that foreign chanceries and embassies be located in a circumscribed area designated for foreign missions. In practice, foreign chanceries and embassies are scattered throughout the city.

8. There is no special commission or agency to handle the location, expansion and modification of foreign missions.

9. Information about Japan's security protection for foreign chanceries and embassies generally is not available. However, several massive demonstrations have taken place in Tokyo. Major issues that sparked the riots included President Eisenhower's scheduled visit to Japan in connection with the 1960 renewal of the US-Japan security treaty, the retention of Okinawa by the United States, the war in Vietnam, the presence of United States military bases in Japan, visits by United States nuclear-powered submarines to Japanese ports, and others. These demonstrations did not involve attacks against the United States Embassy, but they did affect United States-Japanese relations.

There are 95 police stations (about 42,000 police officers) in Tokyo, and each station has under its jurisdiction an average of 13 smaller units known as police boxes. Each police box is manned by about 10 police officers who are responsible for the maintenance of public safety (including security protection for foreign embassies) within the assigned area. In addition, special riot police units known as _kidōtai_ are given assignments that include controlling Japan's massive and often violent demonstrations. It has been reported that the _kidōtai_ are among the most experienced, best trained, and best disciplined police in the world.

There are no Tokyo ordinances specifically banning demonstrations close to foreign chanceries and embassies. Nevertheless, according to a source in the Japanese Embassy in Washington, D.C., foreign missions are well protected by the police boxes and the _kidōtai_. The United States Embassy is especially well-protected since a permanent police box has been established in front of the Embassy compound.

10. Information about the amount of time required for granting the necessary approvals to foreign governments in locating, modifying, or expanding their chanceries and embassies is not available.

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May, 1981

MEXICO

The acquisition of real estate by foreign governments in Mexico for the purpose of setting up embassy or chancery buildings in that country is primarily subject to the discretionary authorization of the Secretariat of Foreign Affairs by the principle of reciprocity with regard to the requesting country. This matter appears to be governed by the following laws.

The Constituion of Mexico of 1917,[1] presently in force, provides:

> Art. 27: I....
>
> Paragraph 2. The State, in accordance with its internal public interests and with the principle or reciprocity, may, at the discretion of the Secretariat of Foreign Affairs, authorize foreign states to acquire, at the permanent sites of the Federal Powers, private ownership of real estate necessary for the direct services of their embassies or legations.

The Vienna Convention on Diplomatic Relations of April 18, 1961,[2] of which Mexico is a signatory, was approved by the Mexican Senate pursuant to the provisions of the decree published in the Diario Oficial of February 20, 1965. Article 21 of the Convention provides:

> Art. 21.
>
> 1. The receiving State shall either facilitate the acquisition of premises on its territory, in accordance with its laws, by the sending State necessary for its mission or assist the latter in obtaining accomodation in some other way.
>
> 2. It shall also, where necessary, assist missions in obtaining suitable accomodations for their members.

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[1] Constitution of Mexico, 1917 (Washington, D.C. General Secretariat, Organization of American States, 1972).

[2] 23 UTS 227, TIAS 7502, 500 UNTS 95.

Concerning security considerations, the Convention provides:

> Art. 22.
>
> 1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
>
> 2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
>
> 3. The premises of the mission, their furnishings and other property thereon [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

The Federal District of Mexico is a political jurisdiction of that country acknowledged under the provisions of Article 43 of the Constitution.[3/] The government of the Federal District, as provided under Article 73-1 of that document, is entrusted to the President of the Republic, who exercises it through the organ or organs prescribed by law. This regulatory law is the Organic Law of the Department of the Federal District of December 27, 1970.[4/] Under the provisions of Article 1 of the Law of December 27, 1970, the powers of the President are exercised through the Chief of the Department of the Federal District, who is a presidential appointee. Also, under the provisions of Article 34 of the Law on Urban Development of the Federal District of December 30, 1975,[5/] all construction in that jurisdiction is subject to the

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[3/] Supra note 1.

[4/] Supra note 2.

[5/] Diario Oficial [D.O.], December 29, 1970.

provisions of the Urban Development Plan of the city. In addition, construction is also subject to zoning regulations as provided in the Zone Regulations for the Territory of the Federal District approved on November 19, 1976.[6]

In view of the above, the questions raised in the letter of inquiry may be answered as follows:

1. Land use is regulated by the local government by means of the Urban Development Plans and Zone Regulations.

2. Apparently, foreign governments are required to comply with the provisions of the above cited regulations.

3. The zoning commission is an appointed local organ, usually for the term of the appointment of the Chief of the Department who, in turn, is appointed by the President. Chanceries and foreign missions must comply with Urban Development Plans and Zoning regulations, thus, they are restricted to certain areas of the city where these types of buildings may be constructed.

4. No regulations have been located answering this question. Presumably, accreditation before the host nation is sufficient for the Secretary of State to consider a land request.

5. No specific answer is available on this question. Presumably, together with the authorization issued by the Secretary of Foreign Affairs, local building permits, translation of site and building plans into the language of the host nation and other local nations must be secured.

6. The host nation authorizes the purchase of the property. The Secretary of Foreign Affairs may set the conditions he may deem necessary in the interest of his government in the approval decree.

7. Apparently, this is done in order to comply with urban regulations.

6/ D.O., November 23, 1976.

8. This kind of agency has not been located in Mexico.

9. No particular regulation on this point was located. Apparently, security protection is provided by the local police.

10. No information is available on this matter. It is presumed that if the President and the Secretary of Foreign Affairs have a special interest in the matter, the time range required for the foreign government to secure the necessary approval may be shortened.

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May 1981

THE NETHERLANDS

Responses to questions 1-11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

As was pointed out in the report prepared in response to the earlier request of April 3, 1981, on this subject, the Netherlands does not have laws limiting the location of chanceries or embassies. Although local ordinances may exist that possibly deal with this matter, these are not included in the collections of the Library Congress.

Following are the answers to the questions posed, insofar as it is possible to reply to them.

Question 1:

Zoning legislation exists in the Netherlands but most of it is done on a local level, except for some general statements. The local ordinances of The Hague are not available in the Library of Congress.

Question 2:

In the absence of laws stating the contrary, it may be assumed that foreign governments do have to comply with local zoning regulations.

Question 3:

Every municipality has a municipal building and housing supervisory board. Each municipality may decide how this board is organized.

Question 4:

Information not available.

Question 5:

A building permit is required for the construction, modification, or expansion of any building, whether or not it is a chancery, mission, or embassy.

Question 6:

Information not available.

Question 7:

Information not available.

Question 8:

Information not available.

Question 9:

Information not available.

Question 10:

The mayor and aldermen of the municipality have 2 months to decide upon a request for a building permit, and they may postpone their decision once for another 2 months.

Question 11:

Not applicable.

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May 1981

PANAMA

The laws governing the acquisition of real estate by foreign governments in Panama for the purpose of setting up chancery buildings in that country is subject to the principle of international reciprocity acknowledged by the Ministry of Foreign Relations and by the following laws.

The Constitution of Panama of October 11, 1972,[1] as presently in force, provides:

> Art. 249. No foreign government or foreign official or semiofficial entity or institution may acquire title to any part of the national territory except for embassies in the manner prescribed by law.

The Vienna Convention on Diplomatic Relations of 1961[2] was approved by Panama pursuant to the provisions of Law 65 of February 4, 1963.[3] Pertinent provisions of this convention follow:

> Art. 21.
>
> 1. The receiving State shall either facilitate the acquisition of premises on its territory, in accordance with its laws, by the sending State necessary for its mission or assist the latter in obtaining accomodations in some other way.
>
> 2. It shall also, where necessary, assist missions in obtaining suitable accomodations for their members.
>
> Art. 22.
>
> 1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
>
> 2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrustion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

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[1] Constitution of Panama of 1972 (Washington, D.C. General Secretariat, Organization of American States, 1974).

[2] 23 UTS 227, TIAS 7502, 500 UNTS 95.

[3] Gaceta Oficial [G.O.], March 12, 1963.

> 3. The premises of the mission, its furnishings and other property thereon, [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Other pertinent provisions of Panamanian law applicable to this inquiry are found in Cabinet Decree 280 of August 13, 1970,[4] which regulates the authorization of privileges and immunities to foreign diplomatic missions and consular offices and their respective members. These provisions state:

> Art. 2. The granting of privileges and immunities to diplomatic missions and foreign consular offices, as well as to their members, shall be subject to the strictest international reciprocity.
>
> Therefore, privileges and immunities may be increased and new ones added, or be restricted or suppressed by order of the Ministry of Foreign Relations, as required in each case. The Ministry may grant or refuse the invoked reciprocity [when it is] alleged to obtain privileges and immunities which are not contemplated in the present Cabinet Decree or acknowledged in a lesser manner here.
>
> ....
>
> ....
>
> Art. 7. It is within the competence of the Ministry of Foreign Affairs:
>
> a) To control the privileges and immunities which are to be granted in the Republic to diplomatic missions and foreign consular offices as well as to their members, to representatives of international organizations, to their special missions or to foreign governments and their members.
>
> b) To make effective the international reciprocity on this matter, by adopting for that purpose the necessary measures, and
>
> c) To resolve any doubt which may arise concerning the regulations established here and on matters related to privileges and immunities in general.

---

[4] Gaceta Oficial [G.O.], August 18, 1970.

> Art. 8. The national authorities shall grant all kinds of facilities to foreign diplomatic missions for the performance of their functions....
>
> Art. 11. The premises belonging to diplomatic missions are inviolable. They cannot be entered without the consent of the Chief of the Mission....
>
> ....
>
> ....
>
> National authorities have the special obligation of adopting whatever measures are adequate for the protection of the premises belonging to diplomatic missions against trespass or damages and to prevent the peace of the mission from being disturbed or from any attempt against its dignity being committed.

Other applicable regulations on this matter appear to be found in the Administrative Code of the Nation approved by Law 1 of August 22, 1916.[5/] Articles 1313 through 1324 of this code govern both the licensing of building construction and demolitions by the local police authority which require consultation with the local civil engineer and the public health authority for the issuance of the corresponding construction license.

In those cases where the municipality has not acquired title to its vacant land, the corresponding licenses for construction shall be issued by the Secretariat of the Treasury, as provided under Law 30 of December 15, 1932.[6/]

In view of the above, the questions raised in the letter of inquiry may be answered as follows:

1. No zoning regulations have been located in Panama for the use of land.

[5/] G.O., August 22, 1916.

[6/] Id., December 19, 1932.

2. This question does not seem applicable to this inquiry.

3. No zoning commission has been located in Panama.

4. No regulation has been located on this matter. Apparently, accreditation before the host nation is sufficient for the Secretary of State to consider a land request.

5. No specific answer to this question has been located. Presumably, together with the authorization issued by the Secretary of Foreign Affairs, local building permits, translations of site and building plans into the language of the host nation and other local licenses must be secured.

6. The host nation purchases property with the limitations provided for under Article 249 of the Constitution, that is, limited to the construction of its embassy building.

7. No regulation on this matter has been located in Panama.

8. No such agency has been located in Panama.

9. No particular regulation on this point has been located. Apparently, security protection is provided by the local police.

10. No information is available on this matter.

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May 1981

PEOPLE'S REPUBLIC OF CHINA

1. We do not have access to, nor have we seen references to, any national or municipal enactments of the People's Republic of China (PRC) that make provision for zoning. However, there may be unpublished guidelines.

2. We have no knowledge of any PRC enactments with which a foreign government must comply with respect to local zoning in locating, building, expanding, or modifying its chancery, mission or embassy. In the attached article from The China Business Review, May-June 1980, p. 5-7, Ambassador Leonard Woodcock makes some comments upon the difficulties the U.S. Embassy has encountered in obtaining satisfactory quarters in Beijing.

3. No information.

4. No information.

5. No information.

6. No information.

7. We believe that foreign embassies generally are located in close proximity. In "Wide-eyed in Peking: A Diplomat's Diary," B. Michael Frolic, who spent some time in Beijing on a special assignment to the Canadian Embassy, commented that the Canadian Embassy "stands in the middle of one of the two foreign compounds. It is in these two areas that practically every foreign diplomat must live and work." Mr. Frolic's article appeared in The New York Times Magazine, January 11, 1976, p. 14 et seq. The above quotation was taken from p. 17.

8. Security in Beijing is quite tight, and, with the exception of periods of political upheaval such as the most chaotic days of the Cultural Revolution 1966-1969), the Chinese have been very concerned with the security of foreigners in China, particularly foreign diplomats. Frolic commented that at the Canadian

Embassy the staff was "guarded by Chinese soldiers stationed at every building entrance." Foreigners in China, including foreign diplomats, frequently comment that the concern for their security and for minimizing their contacts with Chinese citizens is so great that they often feel isolated.

Demonstrations and attacks involving foreign missions during the Cultural Revolution are described in the attached pages 165-171 of James Chieh Hsiung's Law and Policy in China's Foreign Relations, New York and London, Columbia University Press, 1972. In the more controlled atmosphere of recent years, there have been no such demonstrations and attacks.

10. In his interview with The China Business Review, Ambassador Woodcock stated that "[we] submitted to the Chinese last October [1979] a request for a land site for a permanent embassy, with enough space for an American school, which is another big problem we have here, and a separate residence. We also submitted some proposals for staff housing, but have had no response. That solution is years down the road."

It is most likely that policy considerations carry greatest weight in the assignment of space to embassies and work on existing sites and structures. Frolic gives a personal view of these policy considerations as follows:

> ...I learned how the Chinese rank and orchestrate the [foreigners] with which they deal. Canada is automatically lumped in a basic category within a carefully constructed hierarchy of foreigners, much like the system used by the Emperors when China was the "center of world." Most favored are the "good Socialist" countries: Albania, Rumania, North Korea, Vietnam, Laos, Cambodia, and sometimes Yugoslavia. Then the "The Third World," a large category including everything from the Palestine Liberation Organization to Mexico. All developing nations, national independence movements and former colonies fit into this group. The third category is the "Third World," which basically includes all countries of the developed world, excluding America and the Soviet Union, which are classified as the "Superpowers." The pro-Soviet Socialist nations (Poland, Outer Mongolia, etc.) fit into a special category of wayward Socialist countries under "social-imperialist" domination.

These groups, in turn, are ranked by further criteria: When did the country in question establish relations with China? Is its government Socialist or not? Is it a powerful nation? Is there some immediate gain for China in improving her "bonds of friendship" with the nation in question? Thus, in the second-world category, Canada may be more favored than West Germany and Italy, by virtue of our earlier date of recognition, but less favored than France, which is more important as a world power, and has had a longer diplomatic relationship with China. The Americans, because they do not have full diplomatic recognition, and because they are in the maligned superpower class, get lower-level treatment, tempered by the fact that the Chinese admire the Americans for being Number One and are willing to make certain concessions.

How is this categorization tangibly expressed? In many ways, some subtle, some overt. Thus, large Western second-world countries are often crammed into smaller, older embassy facilities, whereas less populous, less important third-world countries frequently receive vast embassy grounds; important Chinese may appear at third-world receptions but not at second-world ones; third-world travelers and diplomats often have access to places that are closed to us; the Americans are forced to pay the highest rents and wages in Peking.

Attachments

Prepared by
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May 1981

CBR Interview with
Ambassador Woodcock

Ambassador Leonard Woodcock has seen the American relationship with Beijing develop and expand from an especially intimate perspective. He personally negotiated diplomatic normalization of relations with China on behalf of President Carter in 1978, and has personally witnessed the fruits of those negotiations. America's Man in Beijing now leads one of the busiest lives of any US representative abroad. CBR's Editor Nicholas H. Ludlow and Managing Editor James B. Stepanek interviewed Ambassador Woodcock on April 3, 1980, about life in Beijing and his view of future Sino-US economic relations.

Impact of the Sino-US Trade Agreement

CBR: What have you seen of the impact of the Sino-US trade agreement in Beijing?

WOODCOCK: The significance of the trade agreement to the Chinese is bringing most-favored-nation treatment into action. It hasn't had that much impact to date on the interchange with regard to business. And its beneficial effect over time is going to be fairly limited.

I look for a growth of two-way trade, and that dependent very much on its being two-way. We must look at the things we are willing to buy from China as well as to sell to China. This is where MFN is helpful. But I think the growth will be slow and gradual because the big breakthroughs that possibly could take place in minerals and in oil have long lead times attached to them.

Last year our two-way trade was $2.3 billion, heavily in favor of the US. I am pleased that more and more American businesses are seeking ways in which to help balance this flow.

CBR: What kind of opportunities have you seen developing for American companies in China? What do you tell American companies?

WOODCOCK: Well, I encourage them to stay on the course. It's currently quite difficult; it takes a lot of patience. And the opportunities are somewhat limited because of China's shortage of foreign exchange. But those companies that work with the Chinese during this period certainly will stand to benefit after the corner is turned, and I'm convinced it will be in a few years from now. A company can look upon this period as a period of investing for the future.

CBR: Could you comment on the Sino-US exhibitions this fall?

WOODCOCK: So far as China's exhibition in the US is concerned, I think there are many attractive wares, in the arts and crafts categories in particular, to which the American people have not generally been exposed. That is in areas where we don't have the competition problem as we do in textiles. I'm very much hoping that the exhibition will be very successful in terms of attendance and interest. And I think it can be. And that can give a very definite upward movement to the trade by exposing areas where not too much trading now is being done.

CBR: How about the US exhibition here?

WOODCOCK: That is in November. Our emphasis there will be on heavy goods. Our exhibit will consist of high-ticket expensive items. The Chinese, in their show, will be obviously much lower in cost, which tends to emphasize the difficulty of balancing out of Sino-US trade on a fair basis. I know that the American exhibit will be very well put together and, I think, will be very successful.

Americans in China

CBR: How many American business executives and tourists are now visiting China?

WOODCOCK: Well the total number of Americans was 30,000 in 1979. Most of those were obviously tourists, but the number of business people was several thousand and included many S&T types. So, of that several thousand, several hundred would probably fall into that category.

CBR: There has also been an increasing number of state-to-province delegations. Three from Massachusetts, Delaware, and Pennsylvania have just been here.

WOODCOCK: The Massachusetts trade delegation is headed up by Lieutenant Governor Tom O'Neal. In fact, that's where I was this morning. Mississippi, Kentucky, and Alaska have been here; Ohio has received two provincial delegations from Hubei; and Michigan had a metalworking delegation. About a third of the states have been here. Seven governors came at once, representing the Governors' Conference.

CBR: How many Chinese provinces have been to the states or have begun forming relations?

WOODCOCK: Six or seven. Not all of them have been to the states.

CBR: Do you see this trend continuing?

WOODCOCK: Yes, there is a great interest on the part of the Chinese. They seem quite excited about it. And we're also developing city relationships. San Francisco and Shanghai, Philadelphia and Tianjin, New York and Beijing. There are a lot of university relationships. Twelve to fifteen, I think, are either in being or in formation. One of the difficulties is that, as you may know, Chinese universities don't have the wide range of disciplines that ours do. So that to have a balanced relationship you need more than one.

CBR: The whole Sino-US relationship is deepening on many fronts.

WOODCOCK: No question about it.

The Embassy in Beijing

CBR: How has the work at the embassy here been affected by normalization of relations?

WOODCOCK: Before normalization, our relationship with the Chinese officials was quite narrow. We always had to work through the protocol section of the foreign ministry. After normalization we began to widen our contacts and they continue to widen all the time.

Before normalization, for example, there were not too many Chinese who would come to the residence for social functions. Now not a week goes by when we don't have one or two, and sometimes three or four, Chinese counterparts to functions for visiting American delegations, or Chinese groups that are going to the US. In the governmental, educational, and cultural areas the relationship has expanded far beyond, very frankly, how I thought it would expand in a relatively short time.

CBR: Are there plans to expand the embassy?

WOODCOCK: There are plans but no apparent sense of urgency. We had on our staff, at the time of normalization, 33 Americans. There are currently 61. Four more are coming, which brings us to 65. About three weeks ago I had to notify Washington that as ambassador I could not approve any further additions to the staff because of lack of housing and lack of office space.

To put that into perspective, after Islamabad (the burning of the US embassy in Pakistan) our staff was cut down there because of the problems. It was cut to about what was said to be a bare minimum; that number was 70.

Some of our people here work a lot of hours per week because of the shortage of our staff. But we will have to wait till we can see some solutions, particularly to the housing problem. Of the present 61, we have 19 in a hotel. Many of them have been there more than six months. There is a new apartment building opening up to foreigners in a couple of months. And another one will be two or three months behind that. We have already been allocated eight apartments, but will still be fifteen short after our staff reaches a ceiling of 65. So at any given time we will have 15 people in the hotel, which is a demoralizing factor.

We submitted to the Chinese last October a request for a land site for a permanent embassy, with enough space for an American school, which is another big problem we have here, and a separate residence. We also submitted some proposals for staff housing, but have had no response. That solution is years down the road.

As far as our consulates are concerned, in Shanghai we have been treated very well. We have an excellent building for the consulate general, and beautiful grounds. And we have been assigned adequate housing for our initial staff.

In Guangzhou, both the consulate and the housing are all in the Dongfang Hotel. They have offered us two sites, both of which we rejected as being inadequate. A building or a site on which we could possibly build our own consulate has not been forthcoming. They will be in the hotel in Guangzhou indefinitely at this point.

Facilities for Business

CBR: What kind of facilities do you have here for business?

WOODCOCK: At present we have some audiovisual equipment which we loan out. We have several officers who are available to give advice and assistance, and two secretaries. We have some storage facilities for business persons going out of the country and coming back later.

We had to close down the little office and reference library we had for business people, because of the tremendous space problems that I referred to earlier. We will assist firms by making appointments if necessary. We transmit messages for them to Chinese officials and send back a lot of messages.

We do permit firms to use our photocopy machines. In a three-month period, I think there were 70,000 copies made. An incredible number.

In Shanghai we have commercial offices. Both consulates will support business people through their regular employees.

Lately, an interesting development has been that Chinese officials have been asking our commercial staff for specific information, either about American firms or American products. Where we know the firm, we have been contacting them directly. Otherwise, we can go to the Department of Commerce to contact the firm. Hopefully, this will lead to some business.

A Typical Day

CBR: How does a typical day go for you?

WOODCOCK: There is no typical day. Visits take place all through the day and people have to be scheduled to fit in with the schedules of the visiting delegations, or whoever, so that there is no such thing as saying, "Every morning I work at my desk." It doesn't work like that.

I normally get up at 6:15, go out and get my exercise around the park, then get back and listen to Voice of America. I usually do quite a bit of reading after breakfast, before I go out front.

CBR: Is that six days a week?

WOODCOCK: Yes. Officially the embassy is closed on Saturday but most everybody is there.

I spend several hours at the desk, running through all the cable traffic and incoming-outgoing mail, all the reading that's required. Practically every evening now, at about 5:00 or 5:30, we have a briefing for American groups, either by the political section or economic section, depending on the composition of the group.

Then we have what we call a reception, which is more of a social occasion. There is a lot of interchange, which nowadays is always on a bilateral basis; that is to say, the

Chinese are always involved, where before normalization that didn't happen as often. Receptions would be for Americans only.

There has been one other big change from pre-normalization. Previously, I went to many diplomatic dinners in other diplomatic communities. Now, I almost never go anymore because the evenings are preempted by dinners with visiting Americans and other functions. That's been a big change.

There is one nice thing about the receptions; thanks to the Chinese, they last only one hour. They begin promptly at 5:30 and end promptly at 6:30, which is a blessing. And, of course, the dinners in which the Chinese are involved are not more than approximately two hours, so that in Beijing the evenings end early. They go to bed early, they get up early.

"...those companies that work with the Chinese during this period certainly will stand to benefit after the corner is turned, and I'm convinced it will be a few years from now."

Our record for banquets was 14 nights straight. That was last spring when there was a briefing or reception or dinner every night. Usually these take five or six nights every week. We try to keep Sunday clear but that isn't always possible.

At Thanksgiving time, those of us who have apartments big enough have over those who are staying here at that time from the business community or American teachers and students. Last Thanksgiving dinner we had 61. We had a wonderful time.

CBR: What other things do you do with the American community?

WOODCOCK: Well, we have now formed the American Club. It's only just begun. I spoke at the first official meeting. Their next event is a luncheon for a congressional delegation headed by Congressman Bingham. That will bring us together more. We try to keep in contact with the American community, generally.

CBR: How many people are there in the American community?

WOODCOCK: It is hard to say; there are about 50 businesses with offices and they rotate the people in and out. There are about 50 students right now and there will soon be a few more. There are more than 200 Americans in the whole country, including some living here as "foreign experts." Plus the embassy staff and their dependents, so the total would be about 300 or more.

Personal Life

CBR: What is your personal view of life here?

WOODCOCK: Well, it's been such an exciting period in the little more than two and a half years that I've been here. There is so much happening, seeing the expansion of the relationship and the deepening of our relationships. The Chinese are such a likable people. My wife and I have thoroughly enjoyed it. We don't feel any deprivations. We have really enjoyed it.

Relationships with the Chinese, certainly at my level, have always been on a formal basis. I don't mean that you can't have an informal relationship, but it has not progressed to that point for me as it has for some of the embassy staff. I think it will come: to be able to say to someone, "Why don't you and your wife come to dinner?"

CBR: What do you do in your leisure time?

WOODCOCK: Well, when we have a free evening we are just happy to spend it at home. We use the time for reading and listening to music. We often watch Chinese television.

CBR: I noticed the piano there; do you play the piano?

WOODCOCK: No, but we have had some [pleasant occasions] because of that. Two American pianists, Walter Hautzig and Daniel Pollack, and violinist Isaac Stern were here to perform. When, for example, Isaac Stern heard that some of the diplomats were having trouble getting tickets to the concerts, he asked me if I would mind arranging a concert here for the diplomatic community. We were delighted to have the concert here—that too was a memorable evening.

CBR: Have you traveled much in China?

WOODCOCK: During the first year I was here, I did a great deal of traveling because there wasn't that much to do. However, beginning in July of 1978, when we began serious negotiations working toward normalization, I didn't leave Beijing for five months, except to go to the States. Since normalization, the opportunities for traveling within the country have not been very plentiful.

CBR: Do you go out for entertainment here in Beijing?

WOODCOCK: No, unless it's part of something official, not very much. Of course, we get some movies which we show here.

CBR: What things about China have impressed you most?

WOODCOCK: When you consider that China is a country about the same size as ours, with five times as many people as we have, I think they have done a remarkable job in managing themselves as well as they have. Particularly in terms of agriculture and their ability to provide as much of their own food needs as they do. That very much impressed me. The Chinese are extremely intelligent people. They have a great future.

With the apparent resources and the known resources they have in minerals, coal, and petroleum, they can solve some of the great economic problems they have. And they are recognizing the problems—a first step toward finding solutions. They are willing now to experiment with economic forms, to find better answers. I think they are pragmatic by nature and they'll find the answers.

CBR: What are your views on the future role of the National Council?

WOODCOCK: I would think there will always be a substantial role for the National Council as I see it personally. There are so many times when a nongovernmental approach can be more easily managed than a governmental approach. An institution like the National Council keeps in close touch with the US government and its programs and needs. It has an extremely useful role to play. ◆

LAW AND POLICY IN CHINA'S FOREIGN RELATIONS

A STUDY OF ATTITUDES AND PRACTICE

James Chieh Hsiung

1972
COLUMBIA UNIVERSITY PRESS
NEW YORK AND LONDON

* * * * * * *

Red Guard orgies against foreign diplomatic missions in Peking were another obvious exception to the trend of Peking's becoming more mellow over the years in respect of diplomatic immunities and privileges. A few notable events are worth mentioning here. First, the Red Guards staged a war of nerves against the Soviet diplomats in the latter part of 1966 and the spring of 1967, involving the siege of the Soviet Embassy and roughing up of Soviet diplomats and their dependents on their way to the airport for evacuation by air.[63] The Soviet Union in 1963 had expelled three Chinese diplomats and two students in Moscow for having distributed anti-Soviet polemics. But the CPR did not retaliate in kind.[64] In late 1966, the Soviets were reported to have insulted and inflicted brutality upon Chinese students in Moscow. At the time of the Red Guard demonstrations in early 1967, similar demonstrations were also staged by Russians outside the Chinese Embassy in Moscow.[65] Thus, the Red Guard campaigns against the Soviet Embassy and its staff could be a form of reprisal against the 1963 Soviet expulsion of Chinese diplomats and against the humility to which the Chinese Embassy personnel were alleged to have been subjected.

Whether the reprisal could be justified, Peking would have to cleanse itself of its obvious failure to provide proper protection to the diplomats of other countries. The Czech and East German chanceries in Peking were among those which suffered from a spill-over of the Red Guard fury against the Soviets.[66] During the Soviet evacuation on February 14, 1967, some Western diplomats—including British Chargé d'Affaires Donald Hopson and Ambassador Lucien Paye of France—tried to link arms with diplomats from Communist states to make a passage for the Soviets to be evacuated by air, but they were reportedly jostled and roughed up by the Red Guard crowds.[67] David Oancia of the Toronto (Canada) *Globe and Mail* reported from Peking at the time that "the Chinese demonstrators seem to take great pains to insure that foreigners whose countries are not officially being attacked are not molested." [68]

Red Guard attacks persistently spread to other embassies. On June 14, 1967, hundreds of Red Guards beat and kicked two Indian diplomats at the Peking airport when they were leaving for Hong Kong after being ordered out of China as spies. Krishnan Raghunath, second secretary, and Padmanab Veejai, third secretary, were accused of having taken photographs on June 4, 1967, of what the Chinese described as "a prohibited military area." Raghunath had been tried *in absentia* by the Peking Municipal Higher People's Court, which, in a default judgment, convicted him of espionage. (It is a moot question whether the trial *in absentia* and the default judgment constituted a violation of the diplomat's immunities.) Indian officials described the charges as a fabrication and said that Raghunath had photographed places of cultural interest. The Red Guard manhandling provoked a strong protest from the Indian chargé d'affaires, Ram Sathe, alleging "inhuman treatment." [69] Chinese officials replied that the Indians had "provoked the masses" by refusing to hand over Mr. Raghunath to security authorities at the airport before leaving for Hong Kong, presumably for protection against Red Guard seizure. Nevertheless, the CPR government could hardly escape the responsibility incumbent upon a receiving state to protect with due diligence the inviolability of foreign diplomats against imminent mob action.[70]

The most bizarre of Red Guard antiforeign campaigns was the sacking and burning of the British Embassy compounds on August 23, 1967. The riot crowned a wave of Chinese protests against the British ban on three Communist newspapers and the arrest of leftist journalists in Hong Kong. It was the Red Guards' answer to the British rejection of a CPR ultimatum demanding that the ban be lifted. More than 10,000 Red Guard youths broke into the compounds, burned down the buildings and all automobiles, and seized all the British Embassy staff and their families, beating some of them before finally releasing them. The outrage strained Sino-British relations almost to the breaking point.[71] In this incident, however, Peking authorities tried actively to control the mob, to quell the fire, and to protect the safety of the embassy personnel. According to an Agence-France-Press dispatch, the fleeing Britons agreed that the Chinese policemen and soldiers—who had surrounded the chancery in an attempt to ward off the attackers—had tried to protect them from the Red Guards. They reported that some of the policemen were wounded trying to stem the fury of the crowd.[72]

The inviolability of the premises of a diplomatic mission, as well as of the diplomatic agent, has been universally recognized in the practice of states and is reaffirmed in the Vienna Convention of 1961.[73] The task of adequate protection may demand the taking of special precautionary measures by the receiving state, such as posting of police guards at the embassy premises or provision of an armed escort for the envoy.[74] Inadequate protection resulting in damages to person or property engages the responsibility of the receiving state. But, if the hostile act was unforeseeable or assumed unforeseeable proportions, the receiving state is free of any responsibility. In February, 1955, for example, the Romanian Legation in Berne was attacked by an armed group of Romanian refugees who took possession of the premises. The Swiss police had no warning for the totally unexpected event. Despite Romanian protests, the Swiss government could not be held responsible.[75] The Supreme Court of the United States in the *U.S. v. Hand* case expressed the view that an attack upon the mission premises is equivalent to an attack upon the person of the envoy himself, that precautions must be taken against mob violence, and failing that an apology was owed to the aggrieved state.[76] Under international law the receiving state has an obligation to intervene at the earliest possible chance to rescue the diplomat or mission premises when an attack breaks out. Where it has been impossible to forestall damage, the receiving state has the duty to repair the damage as early as possible.[77]

Whether the CPR could be held responsible for the Red Guard abuses would depend upon two criteria. The first is whether the Chinese authorities had taken the necessary precautions to protect the foreign diplomats and mission premises under attack. As we have seen, the answer varied from case to case. The CPR government could hardly escape responsibility for having failed to protect the two departing Indian diplomats from Red Guard manhandling. In the British Embassy case, Chinese police and soldiers had been posted outside the compounds but were overwhelmed. After the mobsters had broken into the chancery, these security men risked their lives to provide protection to the embassy staff and their families. The CPR's responsibility, therefore, would be limited to repairing the gutted compounds, plus an apology.

The other criterion for determining Peking's responsibilities is whether the Red Guard actions could be attributed to the willful prompting by the CPR authorities themselves. This would be most difficult to answer; yet, it is more important than the question raised above. From the vantage point of 1971, it appears that, although Red Guard activism owed its origin to an implicit encouragement from Chairman Mao himself at the outset of the Cultural Revolution, violence was from the very beginning prohibited.[78] After January, 1967, Mao reiterated the ban on violence and directed the People's Liberation Army to step in and help stop Red Guard anarchism.[79] It was more than a year before a semblance of order was restored. The ability of the CPR government to maintain effective control over the outbursts of the Red Guards at the time was at best questionable.

At the height of the chaos, some extremists even broke into the CPR Foreign Ministry and staged a "struggle" against Foreign Minister Ch'en Yi.[80] It did not become known until the spring of 1968 that a group of "radical leftist" leaders of the Cultural Revolution—Wang Li, Kuan-Feng, and Ch'i Pen-yu—had been personally responsible for the Red Guard attacks on the Soviet, Burmese, and British embassies in 1967.[81] The "Red Guard diplomacy" phase, which lasted till at least October, 1967, was evidently not sanctioned by Premier Chou En-lai and his foreign minister. In his conversation with Edgar Snow, the American writer, in December, 1970, Chairman Mao Tse-tung said he was not in control of the foreign ministry in 1967 and 1968. It was not until June, 1971, that it was confirmed that a "revolutionary group" was in control of the foreign ministry in August, 1967, when the office of the British chargé d'affaires was burned and attacks made on the Indonesian and Burmese embassies. Yao Teng-shan, former CPR chargé d'affaires in Indonesia, and an important member of the "revolutionary group," was purged and sent to prison on June 11, 1971. Premier Chou was reported to have expressed his regrets to John D. Denson, the new British chargé d'affaires in Peking.[82] These steps were meant to relieve the CPR government of whatever responsibility it had incurred.

It is tempting to compare the Red Guard defiance of diplomatic privileges and immunities with the notorious Boxer Uprising of 1900. In that earlier incident, Boxers besieged and attacked the Legation Quarters in Peking for two months; and, in the final count, death claimed the German Minister and a secretary of the Japanese Legation.[83] However, the similarities are more superficial than real. In the first place, the Boxers were supported by the Empress Dowager, the real power in the Machu government, who used the antiforeign sect to get even with Western powers after years of enforcing foreign privileges under unequal treaties. Secondly, the Boxers virtually declared war on the foreign missions and it was their avowed purpose to kill foreign envoys. The Empress Dowager even ordered that wherever in the empire a foreigner was found he had to be killed. The madness was stopped only after two courageous ministers had altered the outgoing telegrams so that for "kill" they read "protect."[84] Although the Red Guard antiforeign feelings were similarly strong and they had backing from some radical Cultural Revolution leaders, it is questionable whether they had been deliberately used by the CPR government to stage an extermination campaign against the entire diplomatic corps.

Perhaps it would be more correct to compare the Red Guard attacks with the frequent outbursts of anti-Western feelings in other

Afro-Asian countries. In May, 1960, for example, five hundred Indonesian students broke into the Dutch Legation and damaged furniture and valuable paintings.[85] In April, 1965, a mob of twenty thousand Cambodians attacked the American Embassy and ripped down the American flag.[86] The United States consulate-general in Alexandria, Egypt, was gutted, along with a nearby three-story building that housed the United States Information Service, shortly after the Arab-Israeli "June War" in 1967. American diplomatic and consular officers were expelled by Egypt under humiliating conditions for alleged United States support to Israel.[87] During the controversy over Sabah, in the fall of 1968, placard-waving Filipino students broke into the British Embassy residence in Manila, set fire to an adjoining cottage, and broke window panes before the riot police were called in.[88]

Actual violations of diplomatic immunities in state practices throughout the world are more numerous and more frequent than one realizes. In June, 1967, three Guinean diplomats, including the country's foreign minister and its permanent representative to the United Nations, were arrested in Ivory Coast during a stopover as they were returning home from a special session of the General Assembly. The third Guinean was an official of the Universal Postal Union; his family was traveling on the same plane and also arrested. The detention, Ivory Coast officials claimed, was a retaliation against earlier detention in Guinea of nationals and residents of Ivory Coast. The diplomats were not released until September 22, after prolonged efforts by U Thant, the U.N. secretary-general, to obtain their freedom. The seriousness of the case prompted the secretary-general to inscribe the question of diplomatic privileges and immunities of United Nations officials on the agenda of the Twenty-second General Assembly.[89] At the recommendation of the Sixth Committee, the General Assembly, on December 18, 1967, adopted a resolution deploring all departures from the rules of international law governing diplomatic privileges and immunities and those of the United Nations. Furthermore, the resolution urged all U. N. member states which had not yet done so to accede to the 1946 Convention on the Privileges and Immunities of the United Nations, and the Vienna Convention on Diplomatic Relations of

1961. It further urged all states, whether they were parties to the Vienna Convention or not, to "take every measure necessary to ensure the implementation of the rules of international law governing diplomatic relations and, in particular, to protect diplomatic missions and to enable diplomatic agents to fulfill tasks in conformity with international law." [90]

The United States has a "Headquarters Agreement" with the United Nations, signed on June 26, 1947,[91] but has refused to sign the more extensive Convention on the Privileges and Immunities of the United Nations, recommended by the General Assembly in 1946 for adoption by member states. Of course, the CPR is one of the many states, certainly not the only one, to which the General Assembly resolution could be addressed. It may be added, as *obiter dictum,* that the CPR was then ineligible to accede to the 1961 and the 1963 Vienna conventions, since only member states of the United Nations, its specialized agencies, the International Court of Justice, and other states specifically invited by the General Assembly may become parties to these conventions.[92] The Republic of (Nationalist) China was then seated in the United Nations and signed the two Vienna conventions in the name of "China." [93] Although Peking has now replaced Taipei in the U.N., its attitudes on this question remain to be seen.

PORTUGAL

Land use in Portugal is controlled by a number of statutes and regulations which are basically enforced by the local Municipal Chamber. The more relevant sources are the following:

Decree-Law 166/70 on the Municipal licensing of private buildings; Decree-Law 46673 on urban subdivision of real estate; Decree-Law 576/70 on land policy for construction; and Decree-Law 582/70 on the regulation of the civil construction industry of private works.[1]

The statutes and regulations cited above do not appear to grant any special treatment or exemptions for foreign governments in locating, building, expanding or modifying their chancery, mission or embassy. In this regard, the only relevant source found to govern these activities is the Treaty of Vienna of April 18, 1961,[2] the pertinent provisions of which follow:

> Art. 21.
>
> 1. The receiving State shall either facilitate the acquisition of premises by the sending State on its territory, in accordance with its laws, necessary for its mission or assist the latter in obtaining accomodations in some other way.
>
> 2. It shall also, where necessary, assist missions in obtaining suitable accomodations for their members.
>
> Art. 22.
>
> 1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
>
> 2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrustion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

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[1] J. Do Couto Neves, *et al*. *Codificacões Urbanas* (Edição Dos Autores. Grafica Almondina, 1972)

[2] 23 UST 227, TIAS 7502, 500 UNTS 95.

> 3. The premises of the mission, its furnishings and other property thereon, [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

This treaty was was ratified by Portugal and became the law of the land by virtue of Article 8 of Paragraph 2 of the national charter.[3/]

The local enforcement agency, the Municipal Chamber, as defined by the national charter is a "corporate executive organ of the municipal authority, elected by the citizens entitled to vote and who are residents of the corresponding area."[4/]

No specific references were found to zoning restrictions related to the location of chanceries in certain parts of the city. Likewise, no references were found to the certification of foreign governments, or any other form of recognition before a foreign government seeks a site and builds on it.

Within the context of the general laws and regulations cited above, location, construction, modification or expansion of any building, requires application before and approval by the local Municipal Chamber. All documents to be submitted to any Portuguese agency shall be in the Portuguese language.[5/]

The records of the last ten years indicate that there were no incidents involving foreign nations' chanceries of either a violent or threatening nature in Lisbon.

No statutory or regulatory material indicates the existence of specific security measures providing for the protection of foreign government representatives.

[3/] Constitution of the Portuguese Republic [English version] (Lisbon, Secretary of State for Mass Communication, EPNC, 1977)

[4/] F. Luso-Soares, et al. Código de Processo Civil [Annotated] art. 139 (Porto Editora, 1979)

There are no indications of the length of time involved in processing ordinary private applications of the type this report is concerned with, or of applications submitted by the counselor of diplomatic representatives to the same effect.

Prepared by Rubens Medina
Chief, Hispanic Law Division
Law Library, Library of Congress
May 1981

SWITZERLAND

Responses to questions 1-11 posed by Senator Charles McC. Mathias in a letter of May 5, 1981, to Mr. Gilbert Gude, Director, Congressional Research Service.

Question 1:

Land use in Switzerland is regulated on three levels of legislative jurisdiction: federal, cantonal and municipal. The federal law provides the general principles on planning and organization of territory,[1] the cantonal laws implement these principles in their local jurisdictions, and the municipal regulations contain concrete obligatory rules concerning zoning, buildings, streets, and places of recreation.

Question 2:

There are no special provisions in federal law or in the law of Bern Canton concerning the location of foreign chanceries, embassies, and missions. In the absence of such provisions, it is presumed that foreign governments must comply with the general regulations.

The Bern Cantonal Law of 1970[2] gives the competence to delimit zones for dwelling houses, industrial zones, mixed zones, and zones for building complexes to the respective municipal authorities. Unfortunately the regulations for the city of Bern are not available in the collections of the Library of Congress.[3]

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[1] Federal Law on Organization of Territory of May 22, 1979, 1979 Recueil des Lois Fédérales [Swiss Official Law Gazette] 1573.

[2] Art. 21 of the Law of June 7, 1970. In A. Zaugg, Kommentar zum Baugesetz des Kantons Bern, vom 7 Juni 1970 (Bern, Verlag Stämfli & Cie, 1971).

Questions 3-11:

Information to answer these questions is not available.

Prepared by Dr. George Roman
Legal Specialist
European Law Division
Law Library, Library of Congress
May 1981

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[3] Following our inquiry, Mr. Burman of the State Department, requested these regulations from the U.S. Embassy in Bern; but, to date, he has not received them.

UNITED KINGDOM

Most foreign embassies in London are located in two or three prestigious areas of London. This concentration has resulted in problems for residents of those areas. Apart from the constant fear of demonstrations and violence, car parking by foreign diplomats is often inconsiderate and diplomatic immunity is regularly invoked for parking infractions, the embassies regularly give receptions which can turn out to be noisy, and there are long lines of people waiting for visas and other documents.

Local government in the areas concerned have attempted to combat the problems by trying to confine embassies to certain defined locations. For example, the Kensington Borough Council, in whose jurisdiction are located close to 50 embassies, employs the policy of allowing embassies only in the central part of the borough. The Council also subjects the applications to certain criteria, such as whether the immediate area around the proposed site is primarily residential, whether the establishment of the embassy would lead to the displacement of shops and small businesses, whether there are sufficient parking spaces available and the likely impact of increased traffic. In applying these criteria, the Kensington Borough Council could refuse any application for the setting up of a foreign embassy, but it has not yet done so because it would prove politically embarrassing. The Foreign and Commonwealth Office (the Department of State) points out that Britain is bound by the Vienna Convention on Diplomatic Relations of April 18, 1961, which requires it to assist foreign governments in setting up offices.

Answers to the specific questions are as follows:

1. Applications for establishing embassies are required to be made to the local government of the area.

2. Yes.

3. There are no special zoning commissions. The bodies overseeing the matter are the elected local government borough councils. As stated, some councils attempt as a matter of policy to restrict foreign missions to certain areas.

4. Not as far as can be ascertained.

5. The embassies are subject to planning and building permits. Some years back, the Soviet Government planned to develop two large sites in Kensington, one of which would have been surrounded by a 60-foot wall. Prior to the building permit stage, the Foreign and Commonwealth Office intervened to declare the scheme unacceptable. Such action, however, is exceptional.

6. No.

7. By common practice, most embassies prefer to locate in two or three areas of London. Many countries would consider it a loss of face not to be within these prestigious areas. Residents' associations have opposed this practice and would prefer to see the embassies spread out to other areas.

8. The Foreign and Commonwealth Office does not have a special unit concerned with handling the location etc., of foreign missions.

9. The presence of foreign missions raises increasing security risks. The violent seige and storming of the Iranian Embassy in Kensington in May 1980 is the latest example of the kind of security problem involved.

Demonstrations involving foreign embassies are too innumerable to be recounted. During the Vietnam era, the United States embassy was the scene of many demonstrations, one of which resulted in violence and bloodshed. Similarly, the Soviet embassy is subject to regular protest demonstrations on various issues. Special squads from the Metropolitan Police are assigned to protect embassies.

10. This information is not readily ascertainable.

11. Not applicable.

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May 1981

VENEZUELA

The matter of the premises of foreign missions in Venezuela is addressed in the Venezuelan Constitution of 1973,[1] currently in force, which provides in Article 8, that foreign states may acquire, within a specified area, under the guarantee of reciprocity and within the limitations established by law, only real estate which is necessary for the seat of their diplomatic and consular representation.

The acquisition of real estate by international organizations may be authorized only in accordance with the conditions and restrictions established by law. In all these cases, sovereignty over the land is retained by Venezuela.

A search in our Index to Latin American Legislation reveals that no specific law has been enacted in relation to the provisions of the Constitution cited above.

The Government of Venezuela is a signatory of the Vienna Convention on Diplomatic Relations of April 18, 1961,[2] which provides general rules in regard to the acquisition of the premises necessary for diplomatic missions in its Articles 21 and 22 as follows:

> Art. 21.
>
> 1. The receiving State shall either facilitate the acquisition of premises by the sending State on its territory, in accordance with its laws, necessary for its mission or assist the latter in obtaining accomodations in some other way.
>
> 2. It shall also, where necessary, assist missions in obtaining suitable accomodations for their members.

---

[1] *Gaceta Oficial* [G.O.], May 11, 1973.

[2] 23 UST 227, TIAS 7502, 500 UNTS 95.

Art. 22.

> 1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
>
> 2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrustion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
>
> 3. The premises of the mission, its furnishings and other property thereon, [as well as] the means of transport of the mission shall be immune from search, requisition, attachment or execution.

The Act of August 13, 1945, on Immunities and Prerogatives of Foreign Diplomatic Offices,[3/] provides that the Government of Venezuela shall extend to foreign diplomatic offices every facility for the exercise of their functions,[4/] but no specific rules were established in regard to the subject of this report.

Violent incidents involving foreign embassies, according to our sources, occurred on October 11, 1972, when unexploded bombs were found in the United States Embassy in Caracas, but did, however, not provoke any repercussions.

Prepared by Gisela Von-Múhlenbrock
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Hispanic Law Division
Law Library, Library of Congress
May 1981

[3/] Documents and Notes on Privileges and Immunities 375 (Washington, D.C. Pan American Union, 1968)

[4/] *Id.* art. 3.

USSR

As was stated in the previous report of April 3, 1981, there is no law governing the location of foreign missions in the Soviet Union. This question seems to be settled by agreements between the Government of the USSR and the one concerned. Following this practice, the Governmennts of the United States and USSR concluded on May 16, 1969, an Agreement on the Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington[1/] (later referred to as the 1969 Agreement). This Agreement was followed by two others: (1) the Agreement of December 4, 1972, on the Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and of the Embassy of the Union of Soviet Socialist Republics in Washington[2/] (later referred to as the 1972 Agreement) and (2) by the Agreement of March 30, 1977, Concerning Dates for Use of Land for and Construction of Embassy Complexes in Moscow and Washington[3/] (later referred to as the 1977 Agreement). These agreements are attached as Appendixes I, II, and III, respectively.

It should be pointed out, first, that under the Soviet Constitution all land is the exclusive property of the state. Hence, a plot of land allocated for construction of a diplomatic mission's complexes of buildings remains the property of the Soviet Union. On the other hand, buildings erected

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[1/] 20 U.S.T. 789.

[2/] 23 U.S.T. 3544 (Part 4).

[3/] 28 U.S.T. 5293 (Part 5).

on the allocated plot of land after expiration of the period of use is to be decided by negotiation between the parties concerned.

In compliance with the Subcommittee's request, answers to the specific questions 1-11 follow:

Question 1:

Pursuant to the Fundamental Principles of Land Legislation of the USSR and the Union Republics of December 13, 1968,[4] all land within city limits is under the jurisdiction of the respective city council of people's deputies, in this case the Moscow City Council. Its powers include the right to regulate, among other things, urban development, architecture, city district planning (zoning), and the like. However, the regulations of the Moscow City Council or its Executive Committee are not available.

Question 2:

Foreign governments are required to comply with local zoning regulations. For details, see the 1972 Agreement, I. General Conditions, paragraphs 3-5.

Question 3:

Information not available.

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[4] Vedomosti Verkhovnogo Soveta SSSR [official law gazette of the USSR], No. 51, 1968, text 485, as amended.

Question 4:

Information not available.

Question 5:

Approvals required of foreign governments are listed in the 1972 Agreement under III. Planning Documentation.

Question 6:

According to the Soviet Constitution, all land is the exclusive property of the state. Plots of land for the construction of diplomatic buildings are made available free of charge for a specific period of time. In the case of the United States Embassy in Moscow, the period is for 85 years with the right to extend. (See the 1969 Agreement, Article III, paragraphs 1 and 4.)

Question 7:

Information not available.

Question 8:

The USSR Ministry of Foreign Affairs (Services for Diplomatic Corps Division) handles the location, expansion, and modification of foreign missions.

Question 9:

Information not available.

Question 10:

See the 1977 Agreement.

Question 11:

See Appendixes II and III. Further information concerning the status of construction and occupancy timetables, as well as delays and the reasons for them, is not available.

Prepared by Tadeusz Sadowski
Senior Legal Specialist
European Law Division
Law Library, Library of Congress
May 1981

THE LIBRARY OF CONGRESS
WASHINGTON, D.C. 20540

Office of the
Law Librarian of Congress

Attention: Marian Morris

Dear Senator Mathias:

In reply to your request of April 3, 1981, we are enclosing reports, prepared by members of the Law Library staff, regarding the location of chanceries and embassies in Canada, Italy, Japan, Switzerland, the United Kingdom and USSR.

We have found no laws or regulations, regarding this subject, in the countries of France, Germany, and the Netherlands.

If we may be of further assistance, please call on us.

Sincerely,

Carleton W. Kenyon

Carleton W. Kenyon
Law Librarian

Enclosures

Honorable Charles McC. Mathias, Jr.
Chairman, Governmental Efficiency/D.C.
Subcommittee
Senate Governmental Affairs Committee
Washington, D.C. 20510

CANADA

Unlike the District of Columbia, Ottawa is not under the jurisdiction of the Federal Government of Canada. However, the federal government does own a great deal of property in this Ontario city and it has established a National Capital Commission to supervise and coordinate the development of the Ottawa-Hull region.

The city of Ottawa is zoned and, under the by-laws, embassies and other public buildings are required to be located in the "G" zones. However, under Canadian law, once a property is purchased by a foreign government for use as an embassy, that property becomes foreign land. Consequently, the municipality really has no control over the location of embassies. Similarly, when selling land to a foreign government for use as an embassy, the National Capital Commission will make recommendations regarding the size and design of a building, but it has no enforcement power.

In addition to the general zoning laws, there are no special laws that apply specifically to embassies and there are no special bodies to review plans that may be submitted to the municipality.

Prepared by
Stephen F. Clarke
Legal Specialist
American-British Law Division
Law Library, Library of Congress
April 1981

ITALY

The location of chanceries and embassies does not fall within the purview of Italian zoning laws. In fact, diplomatic, consular, and commercial missions are scattered throughout Rome. In this connection it is worth noting that chanceries and embassies are indeed many in Rome because of the existence of diplomatic missions not only to the Quirinal, but also to the Holy See, to the Sovereign Military Order of Malta, and to the Food and Agricultural Organization of the United Nations. Romans will frequently remark that several of the best pieces of real estate in Rome house diplomatic missions. Two such examples are the American Embassy's Palazzo Margherita and the French Embassy's Palazzo Farnese.

Prepared by Dr. Vittorfranco S. Pisano
Senior Legal Specialist
European Law Division
Law Library, Library of Congress
April 1981

JAPAN

Japan has no special zoning laws or zoning commissions to handle the location of chanceries and embassies. In Japan, any foreign government specified by the Ministry of Finance (usually one maintaining normal diplomatic relations with Japan) may acquire or lease land, buildings or accessories to such property without difficulty.[1] Any foreign government which has not been specified by Japan's Ministry of Finance, however, must obtain permission from the Minister of Finance to acquire or lease land, buildings or accessories thereto.[2]

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[1] Ministry of Finance Notification No. 1531, August 21, 1952.

[2] Cabinet Order Concerning the Acquisition of Real Property and/or Rights thereto by Foreign Governments, Cabinet Order No. 311, as last amended by Law No. 270, July 31, 1952.

Prepared by Dr. Sung Yoon Cho
Assistant to the Chief
Far Eastern Law Division
Law Library, Library of Congress
Washington, D.C. 20540
April 1981

SWITZERLAND

In Switzerland, the power to enact legislation establishing the general principles applicable to management plans of the Swiss territory belongs to the Confederation. The cantons have the duty to enact laws conforming to such principles and to supervise the implementation of such laws within their jurisdictions.[1]

The Bern Cantonal Law of June 7, 1970, on Construction, which covers the capital city, provides for the obligation of towns (communes) to adopt regulations regarding the construction of buildings, and to delimit zones for such construction from the rest of the communal territory.[2] According to this Law, the zoning plan must divide plots of land into zones for the construction of buildings, to establish spaces for public use, and to designate both protected and dangerous zones of towns.[3] Towns particularly have the right to delimit zones for dwelling houses, industrial zones, mixed zones, and zones for a complex of buildings.[4] The Law does not contain provisions, however, on special zoning laws or zoning commissions regarding the location of foreign chanceries.

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[1] A.P. Blaustein *and* G.H. Flanz, *eds.*, 14 *Constitutions of the Countries of the World*, "Switzerland," (Constitution, art. 22 quater) (Dobbs-Ferry, N.Y., Oceana Publications, 1980).

[2] A. Zaugg, *Kommentar zum Baugesetz des Kantons Bern, vom 7 Juni 1970*, Art. 14 (Bern, 1971).

[3] *Id.*, art. 20.

[4] *Id.*, art. 21(2).

Neither the Law Library nor the Swiss Embassy has the City of Bern municipal regulations on zoning.

Prepared by Dr. George Roman
Legal Specialist
European Law Division
Law Library, Library of Congress
April 1981

UNITED KINGDOM

Under the Vienna Convention on Diplomatic Relations of April 18, 1961, the United Kingdom is under an obligation as a receiving state to facilitate the acquisition of diplomatic premises by a foreign country or to assist in the finding of accommodation in any other way.*/ The article does not, however, oblige the United Kingdom to change its zoning or property laws in order to meet its obligation under the Convention.

The laws of the United Kingdom do not place any special restrictions on the location of diplomatic missions. Occasional protests have been made by residents who are adversely affected by the presence of such missions in their area. These have, however, not resulted in the enactment of any laws setting up a special body to handle the location of diplomatic missions.

Prepared by
Kersi B. Shroff
Senior Legal Specialist
American-British Law Division
Law Library, Library of Congress
April 1981

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*/ Vienna Convention on Diplomatic Relations, Cmnd. No. 2565, art. 21 (1961).

USSR

There are no zoning laws and regulations pertaining to the allocation of sites or foreign chanceries in the USSR.

It should be pointed out that the site for the American Embassy in Moscow was assigned by the US - USSR Agreement of May 16, 1969, on Embassy Sites (20 U.S.T., p. 789). The same agreement also contains provisions concerning the location of the Soviet Embassy in Washington.

Prepared by Tadeusz Sadowski
Senior Legal Specialist
European Law Division
Law Library, Library of Congress
April 1981

THE LIBRARY OF CONGRESS
WASHINGTON, D.C. 20540

LAW LIBRARY
EUROPEAN LAW DIVISION

[illegible] JUL [illegible]

Re: LL Eur 82-1466

Attention: Ms. Marion Morris

Dear Senator Mathias:

Pursuant to your telephone request of July 6, 1982, we have prepared the enclosed reports concerning vacated buildings of foreign missions and planning authorities in the western capitals of Bern, Bonn, Brussels, Copenhagen, Paris, and Rome.

If we may be of any further assistance in this matter, please feel free to contact us.

Sincerely yours,

Ivan Sipkov

Ivan Sipkov
Chief

Enclosures

Honorable Charles McC. Mathias
Chairman, Subcommittee on Governmental
  Efficiency and the District of Columbia
Committee on Governmental Affairs
United States Senate
6222 Dirksen Building
Washington, D.C. 20510

BELGIUM

I. Authority of Local City Governments

Local city governments in Belgium have authority over buildings in the city which are owned or leased by foreign governments (e.g., embassy buildings), whether or not the buildings are in use or vacant. The authority extends to city planning, building regulations, zoning, design, height, size, architectural merit, etc., and foreign missions have to comply with such provisions. The Vienna Convention on Diplomatic Relations of April 18, 1961, [1] does not deal with the matter. Its articles 21 and 30 on the inviolability of residence and property do not affect the sphere of authority of the city governments as indicated above. Also, foreign embassies should voluntarily comply with the provisions of local health and safety codes.

II. Planning Bodies

Planning is regulated by the Law of March 29, 1962, on Planning. [2] Planning proceeds on national, regional, and local levels and is done by the respective commissions, which are responsible for preparing plans but have no enforcement powers. These commissions are purely planning and consulting bodies. The plans are reviewed by the inhabitants of the respective territories and must be approved by the government. After the process has run and the plans are approved, they are published in the official gazette and become enforceable by the government.

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[1] 23 U.S.T. 3227; T.I.A.S. 7502; 500 U.N.T.S. 95.

[2] J. Servais *and* E. Mechelynck, *comps.*, 3 *Les Codes Belges* 673 (Bruxelles, 1981).

The National Commission is composed of a chairman and 30 members appointed by the government for a 4-year term, all of whom may be reappointed. Of the total, nine are selected by the Central Council of Economics and another nine by the individual provinces (one per province).

The Regional Commissions have a chairman and 22 to 30 members. One-half are selected by the government from among government experts and representatives of regional and local bodies of the particular region. The other half are selected by the regional government from among persons with business and other interests in the region and are then appointed by the government.

The Local Commissions have a chairman and 10 to 20 members selected by the Regional Planning Commissions from among both the public and the private sectors of the community in question. They are then appointed by the government.

The internal rules governing the commissions and their rules of procedure are set by the government.

Prepared by Dr. George E. Glos
Assistant Chief
European Law Division
Law Library, Library of Congress
July 1982

DENMARK

I. Vacated Diplomatic Premises

Denmark does not have extensive legislation on diplomatic privileges and immunities but merely a Statute No. 252 of June 18, 1968, which in a few lines transforms the provisions of the Vienna Convention of April 18, 1961, on Diplomatic Relations [1] into domestic Danish law. Hence, the question as to whether or not the local authorities of the City of Copenhagen may enforce local health and safety codes with regard to a vacated chancery building must be answered hypothetically on the basis of an interpretation of the provisions in the Vienna Convention. As far as this writer can ascertain, there have not been any cases of this kind in the City of Copenhagen. Its municipal agencies have always been able to cooperate smoothly with the Danish Ministry of Foreign Affairs as well as with the missions for foreign countries stationed in Copenhagen, and they seem in this way to have managed to avoid widely published confrontations.

A. Premises Not Used for the Purpose of a Diplomatic Mission

Normally the municipal authorities of the City of Copenhagen would have the right to enforce local health and safety codes with regard to a chancery building or the like that has been vacated by a foreign diplomatic mission. However, they would scarcely take steps to initiate such enforcement without having express approval by the Danish Ministry of Foreign Affairs.

According to articles i(i) and 22 of the Vienna Convention, the premises of a diplomatic mission enjoy immunity or are "inviolable" only for as long as these premises are "used for the purpose of the mission." However, this does not apply if the premises were vacated under circumstances such as those described in article 45 dealing with termination of diplomatic relations or with the recall of a diplomatic mission. In such situations the immunity of the premises seems to continue for a rather indefinite period of time. Similarly, the municipal authorities would be left in a rather untenable position if they should decide that a certain building was no longer used for the purpose of a foreign diplomatic mission, and a contrary conclusion should be reached by the national government represented by its Ministry of Foreign Affairs.

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[1] 23 U.S.T. 3227

B. Premises Used for the Purpose of a Diplomatic Mission

The municipal authorities of the City of Copenhagen do not seem to have any legal rights to enforce local health or safety codes with regard to a vacated chancery building or any other premises of a foreign diplomatic mission as long as such premises are found to be "used for the purpose of the mission" (Subpart A, above). It follows from article 22 of the Vienna Convention that all such premises are immune or "inviolable," and that Danish agents cannot even enter such premises, "except with the consent of the head of the mission." True, the foreign country in question, as well as its diplomatic mission are, according to the Convention's article 46, obliged to respect the laws and regulations of Denmark, and it is usually this provision that is used to persuade the diplomatic corps to follow local laws and regulations. However, it appears also unambiguously from the Convention's article 31 that the staff of any diplomatic mission enjoy immunity for all criminal jurisdiction as well as immunity for civil and administrative jurisdiction with regard to real property held "on behalf of the sending state for the purpose of the mission." Hence, activities to implement local health and safety codes in premises used for the purpose of a foreign diplomatic mission are normally limited to persuasion, except for extraordinary steps unquestionably necessary to avert a clear and present danger to public health or safety.

As already indicated, the above interpretation of the Vienna Convention is hypothetical since it has not been possible to locate any Danish case law on this matter. It is, however, my understanding that the report on the Federal Republic of Germany contains German case law which supports some of my above interpretations.

II. National Planning Authority

Denmark does not have any national planning commission or the like with jurisdiction over the use of land, public buildings, or the like. On the national level political responsibility for such matters rests with the Minister for the Environment who is assisted by the Ministry for the Environment and its subordinate Planning Directorate (Planstyrelsen). On the regional level the responsibility rests with the elected county councils, and at the local level with the elected city councils. However, the planning activities by the county councils as well as those by the city councils are closely supervised by the rather powerful Planning Directorate (Planstyrelsen). A brief outline of the historical development of Danish planning legislation is available. [2]

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[2] J. Magnussen, Urban Change and Urban Planning in Denmark 10-14 (Copenhagen, 1979) (LC call no. HT169.D4M33). (See the Appendix.)

Specifically with regard to the City of Copenhagen should be noted that the local planning authority clearly is its City Council (Borgerrepresentation), but that its powers are limited. It would normally be the city's inspectors or experts who initiate enforcement actions in planning matters, while actual enforcement is the responsibility of the state police and of state appointed prosecutors. The City Council has the authority to pass new plans and to amend existing ones. However, it follows from section 51 of Statute No. 287 of June 26, 1975, on Municipal Planning that the Minister for the Environment assists the cities in such matters, and that he has been delegated broad powers to issue regulations regulating urban planning. Furthermore, if the Copenhagen City Council has passed a local plan, this plan may be vetoed by the Copenhagen Metropolitan Council (sect. 25), by any state agency (sect. 26), and by the Minister for the Environment (sect. 28) who has the final word.

In brief, the system encourages cooperation and consultations, rather than confrontations.

Prepared by Dr. Finn Henriksen
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European Law Division
Law Library, Library of Congress
July 1982

Denmark – The Appendix

COSTS OF URBAN GROWTH Stage 1

European Coordination Center for Research
and Documentation in Social Sciences. Vienna.

URBAN CHANGE AND URBAN POLICY IN DENMARK

by Jan Magnussen

Bygeografisk Skriftserie
Rapport 11:1979
ISSN 0105-9823

Department of Geography
University of Copenhagen

Physical planning, a historical overview.

The Town Planning Law was introduced in 1938, superseding a law from 1926. It prescribed that towns with more than 1000 inhabitants are to prepare a town plan. Town plans were not-mandatory outline plans which formed the preliminary to eventual compulsory by-laws and thus lay down guidelines for local government development, usually for a period of 15 years. The plans may be seen as contracts between the ministry and the local governments committing the latter to endeavour to implement their plans.

The urban sprawl, often crossing municipal boundaries, necessitated that in 1949 an Urban Development Act was passed. Where the urban areas contained more than one municipality, "urban development committees" were set up to prescribe the limits of urban development for 15 years. Until 1970, when the municipal reorganization was effected, 43 urban development committees were in existence.

In 1961, the government decided to start a long-term physical planning for the whole country. In 1958 the Regional Development Act was passed, and now the objective was to make more effective the coordination of public resources influencing the geographical distribution of economic activities and urban growth.

To handle the work of national planning there was established, on a Dutch model, an interministerial National Planning Committee with representatives from thirteen ministries and public agencies. To the new committee a technical secretariat was attached.

The first step towards a continuous land use planning for the whole country was the "Zoning Plan 1962 for Denmark", and advisory framework for detailed planning on regional and local basis.

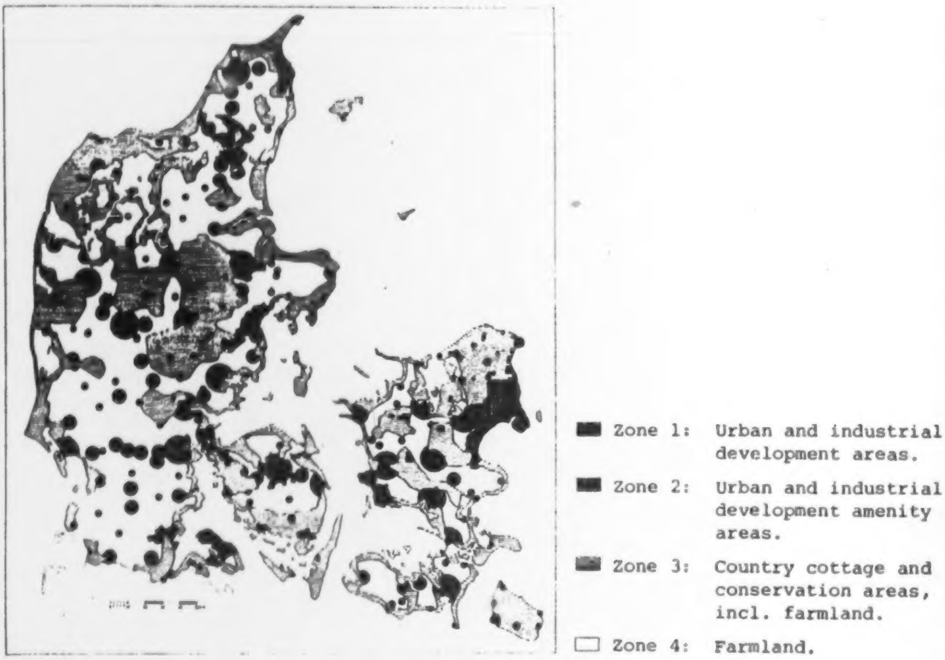
■ Zone 1: Urban and industrial development areas.
■ Zone 2: Urban and industrial development amenity areas.
▨ Zone 3: Country cottage and conservation areas, incl. farmland.
☐ Zone 4: Farmland.

Fig. 4. Zoning Plan 1962.
("Arealplanlægning", Landsplansekretariatet, 1974)

In 1963 a proposed land legislation was rejected by a referendum which for some time weakened the political interest in planning. The secretariat started studying criteria for dividing the country into planning regions, and, in 1966, began to work with the problem of the relationship between the Copenhagen region and the rest of the country. By that time the Committee ended its work, but for some years the secretariat continued to work alone in cooperation with the planning office of the Ministry of Housing (No.3). In 1968, a Government Planning Committee was set up, and in 1969-70 a major planning reform started.

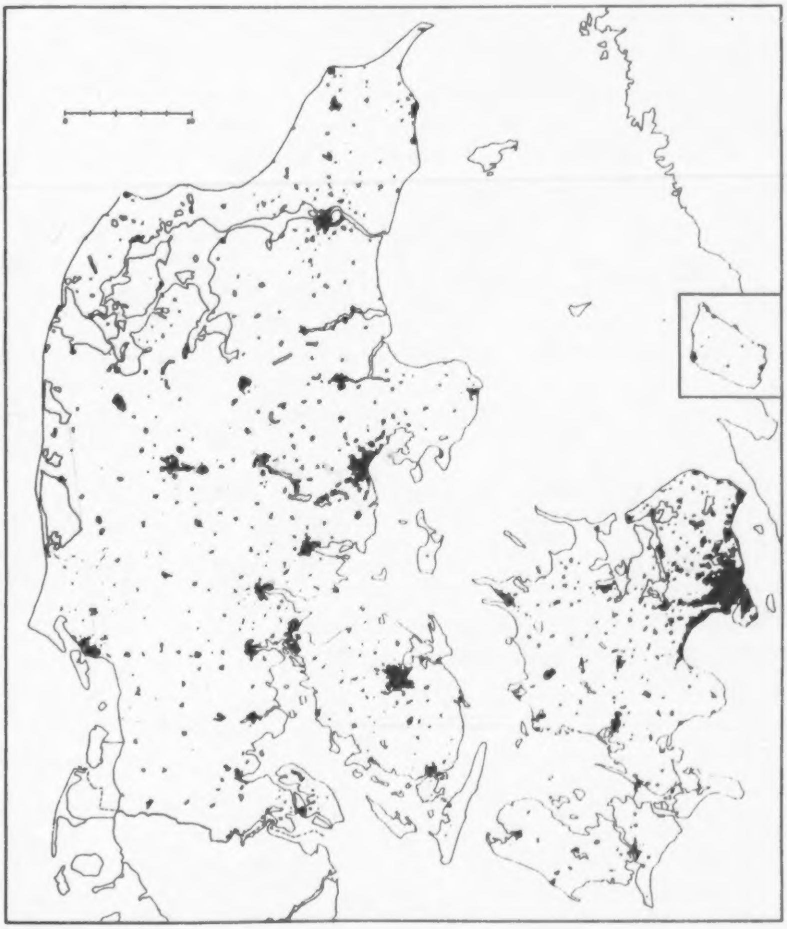

Fig. 5. Urban zones 1.1.1974.
("Regionplanorientering" No. 5. Planstyrelsen 1975)

The 1970's planning reform

This reform started actually in 1969 with the Urban and Rural Zones Act which from 1970 divided the country into urban zones, rural zones and areas for summer cottages. All areas which on January 1st, 1970, were designated to urban development or to country cottage development in approved plans became urban zones and country cottage zones respectively. Non-planned areas became rural zones. On demand the urban zones can be extended, and it is expected that enough land should be included in urban zones to provide for the supply of 12 years.

Administration of the Zones Act has caused certain problems with regard to the future of small villages. The depopulation of rural areas and the future of the villages is a matter of great political concern in Denmark. Besides the Zones Act, a Nature Conservation Act from 1969 extended the concept of building lines (100 mtrs. from coasts, 300 m from woods and 150 m from roads, lakes and watercourses). These restrictions can only be set aside by permission of the regional conservation board.

The second stage in the planning reform was the National and Regional Planning Act in 1973. It was not intended to prepare a proper national plan, but rather to create political support for national planning as a coordination instrument in economic, long-range planning, sectoral planning, local and regional planning etc.

The regional plans are made by the county authorities, but the power of approval and amendment lies with the government. Some important new ideas were introduced in the legislation: the first phase of regional planning is to obtain proposals from local authorities on how they wish their future in the region should look like and also the region as such. Second, the county authority has to make alternative drafts. And third, the alternative drafts are to be publicly debated for a period of half a year.

Besides its approval and amendment of the regional plans, the government issues national planning directions on specific topics which are of special importance for the government's policy concerning physical planning. From 1975, a picture of the current and future policies and of the basic problems in the field of urban and regional development is given by the Minister of Environment in his annual report to the Folketing's Physical Planning Committee.

Finally the last step in the planning reform was a new Municipal Planning Act, passed in 1975 and effective in 1977. By this law each local authority is required to produce a municipal structure plan. This is to define the overall structure, the urban pattern, the land use, the centre structure etc. Secondly, the municipal plan outlines the frame for what is permitted in local plans.

In local plans the detailed planning for a specific area is given following a procedure much similar to the regional planning, but without prescribing alternative drafts.

FEDERAL REPUBLIC OF GERMANY

Local authorities in the Federal Republic of Germany are not barred from enforcing health and safety laws in buildings that have been permanently vacated by a foreign government, even though this government may still own or lease the property and it was formerly used for diplomatic purposes.

This follows from the German interpretations of international law with regard to diplomatic immunity. According to decisions of the Supreme Restitution Court for Berlin of 1959 1/ the immunity of diplomatic premises exists to facilitate the continuous conduct of established and existing diplomatic relationships between sovereign countries. But when the use and the function of the premises has ceased -- and ceased for a reason not truly or merely temporary -- then their immunity must be considered as likewise having come to an end. The court reached that decision on the basis of the functional theory of extraterritoriality, as stated by the International Law Commission of the United Nations in the Commentary to the Draft of the Vienna Convention on Diplomatic Relations. 2/ The facts of the case, however, clearly indicated that the premises had been vacated, since the building had been destroyed in World War II and no diplomatic use of the premises had been made for 14 years.

1/ Tietz v. Bulgaria, Supreme Restitution Court for Berlin, July 10, 1959, reprinted in 54 American Journal of International Law [AJIL] 165 (1960). On the same date, this court also reached the same conclusion in Weinmann v. Lavia, 54 AJIL 178 (1960).

2/ "Report of the International Law Commission," 53 AJIL 268 (1959).

Another decision of the Supreme Restitution Court for Berlin of 1959 [3] involved the issue of diplomatic immunity of a building used during World War II as part of the Japanese embassy. In this case, the Court held that diplomatic immunity depended on the actual use of the building and not on the intentions of the sending state. As in the case described above, the facts were quite clear in that no diplomatic use had been made of the property for many years.

Even though these decisions preceded Germany's ratification of the Vienna Convention on Diplomatic Relations, [4] the entering into effect of the Convention has not changed these interpretations of international law. A 1962 decision of the Federal Constitutional Court [5] affirms these holdings and states that the limitations of immunity resulting from the functional theory of extraterritoriality are in keeping with Article 22 of the Convention. Likewise, a German textbook on international law published in 1979 [6] states that immunity is terminated when buildings are no longer used for mission purposes and refers to the above cited decisions.

A review of the German sources does not reveal a more recent case on this issue. This is not surprising, since in German practice the enforcement of building, health, and safety codes with regard to foreign missions is usually settled amicably by cooperation between the local authorities, the Federal Ministry of Foreign Affairs, and the heads of foreign missions. The Federal Republic of Germany does not have an agency comparable to the National City Planning Commission in the United States.

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[3] Cassirer v. Japan, 54 AJIL 178 (1960).

[4] 23 U.S.T. 3227; T.I.A.S. 7502. Effective for the Federal Republic of Germany as of December 11, 1974, Bekanntmachung vom 13. Februar 1965. Bundesgesetzblatt [official law gazette of the Federal Republic of Germany] II, p. 147 (1965).

[5] Decision of October 30, 1962, 15 Entscheidungen des Bundesverfassungsgerichts 37 (1932).

[6] E. Menzel, Völkerrecht 274 (München, 1979).

Prepared by Dr. Edith Palmer
Senior Legal Specialist
European Law Division
Law Library, Library of Congress
July 1982

FRANCE

Buildings either owned or leased to foreign governments and used as embassies or chanceries benefit from extraterritoriality as long as they are used in this manner for diplomatic purposes. 1/ Such buildings lose this privilege once they are vacated. Local authorities are then free to enforce the health and safety measures. The provisions of the Urban Development Code, R-613-1 and 613-2, 2/ provide that the Planning Committee of the Parisian Area attached to the Ministry of Urban Development must be consulted on any use of the land and buildings in the vacinity of Paris. France, however, is not a federal state.

Prepared by Dr. M. Tahar Ahmedouamar
Senior Legal Specialist
European Law Division
Law Library, Library of Congress
July 1982

1/ Vienna Convention on Diplomatic Relations, April 18, 1961, 23 U.S.T. 3227; T.I.A.S. 57502; 500 U.N.T.S. 95.

2/ *Code de l'urbanisme* 409 (Paris, Dalloz, 1977).

ITALY

I. Authority of Local City Governments

Local city governments in Italy have authority over buildings in the city which are owned or leased by foreign governments (e.g., embassy buildings), whether or not the buildings are in use or vacated. The authority extends to city planning, building regulations, zoning, design, height, size, architectural merit, etc., and foreign missions have to comply with such provisions. The Vienna Convention on Diplomatic Relations of April 18, 1961, [1] does not deal with the matter. Its articles 21 and 30 on the inviolability of residence and property do not affect the sphere of authority of the city governments as specified above. Also, foreign embassies should voluntarily comply with the provisions of local health and safety codes.

II. Planning Bodies

Planning is regulated by the Law of August 17, 1942, No. 1150, on City Planning, as amended. [2] It provides for planning on national, regional and local levels. Planning is directed by the Ministry of Public Works, which is assisted by the Superior Council of Public Works. The Ministry designs the national plans, while regional plans are prepared by the regions and local plans by the communities. Regional and local plans are coordinated with the national planning and must fit within it. Plans are prepared with the cooperation of the inhabitants of the communities and regions concerned and must be approved by the respective city and regional governments, as well as by the Superior Council of Public Works and the Ministry of Public Works.

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[1] 23 U.S.T. 3227; T.I.A.S. 7502; 500 U.N.T.S. 95.

[2] Gazetta Ufficiale della Repubblica Italiana [official law gazette of Italy, G.U.], October 16, 1942, No. 244.

The Superior Council of Public Works is a large body of officers of public administration representing all government departments concerned with planning and also includes technical experts. It works in divisions dealing with individual aspects of planning. [3]

The regional planning bodies are set up by statutes enacted by the several regions. For example, in Lazio a large Planning Consortium was set up [4] that consists of a president, a council, and an assembly representing the communities within the region.

Communal planning bodies are similarly set up by city ordinances in the cities. [5]

Prepared by Dr. George E. Glos
Assistant Chief
European Law Division
Law Library, Library of Congress
July 1982

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[3] Law of November 20, 1957, No. 1208, G.U., December 27, 1957, No. 319.

[4] Regional Law of June 12, 1975, on the Regional Planning Consortium, Bollettino ufficiale della Regione Lazio [official law gazette of Lazio], June 30, 1975, No. 18.

[5] M. Giacopetti, Roma diversa 34 (Bulzoni ed. Roma, 1977).

SWITZERLAND

I. Vacated Buildings of Foreign Missions

In terms of the preamble of the Vienna Convention on Diplomatic Relations of 1961, to which Switzerland is a contracting party, the purpose of granting diplomatic privileges and immunities, including those regarding the inviolability of diplomatic missions, was "not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing states." The Convention did not retain the concept of extraterritoriality and the fiction that these privileges and immunities reflect an extension of the territory of the sending state within the receiving state with the consequence that the diplomatic missions are not subject to the laws of this latter state. On the contrary, article 41, paragraph 1, of the Convention expressly provides that "without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State."

Switzerland enacted the Federal Law of June 22, 1979,* on the Management of Territory which, without exception, submits any construction, installation, or renovation of a construction and installation to prior authorization of the local competent bodies. This authorization is granted only if the respective construction or installation conforms to the plan of the zoning area, and the lot on which the building is to be built is equipped with all the necessary facilities including water, sewer, electricity, etc.).

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* 1979 Recueil des lois fédérales 1573 (Bern, 1979).

In conclusion, all the vacated buildings of foreign diplomatic missions, either owned or leased, are subject to the local public (administrative) laws regarding security, salubrity, the height of buildings, expropriation for public use, and the like. These laws of control of construction are of immediate application and have the purpose of ensuring the health and security of the general population and have a general mandatory character.

II. Federal Planning Authorities in Zoning and Building

The Federal Council (Government) is the highest Swiss body in charge of formulating, establishing, and implementing its concepts and national zoning plans. The Council is assisted by the Federal Service for the Management of Territory, which for all practicality performs the everyday work of supervision. Each canton has an authority who is in charge of territory management.

The cantons have the duty to establish the directory plans which broadly organize the development of their territory in the following:

a. land for agriculture;
b. land distinguished by its beauty and reserved for tourist areas;
c. land threatened by natural forces or other causes;
d. development of city buildings; and
e. the development of transportation, communication, and public construction.

The Federal Council approves the cantonal plans; and, with this approval, the plans become binding on both the federal and cantonal authorities.

In addition, the Federal Council, with the help of cantonal authorities, establishes a broad zoning plan for the entire country. Each canton has to make certain that the cantonal plan does not conflict with the federal plan.

Prepared by Dr. George Roman
Senior Legal Specialist
European Law Division
Law Library, Library of Congress
July 1982

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

MARION BARRY, JR.
MAYOR

August 18, 1981

The Honorable Charles McC. Mathias, Jr.
6222 Dirksen Senate Office Building
Washington, D.C. 20514

Dear Senator Mathias:

Thank you for your assistance regarding the matter of foreign chanceries in the District of Columbia. I have enclosed responses to your questions for your information. If I can be of further assistance, please do not hesitate to contact me.

Sincerely yours

Marion S. Barry, Jr.
Mayor

Enclosure

Q. To your knowledge, has the State Department discussed with representatives of the District Zoning Commission or Board of Zoning Adjustment problems which it perceives in the current zoning process for chanceries? Has the State Department expressed its concern with the current process in writing to you, Mr. Mayor, or with other representatives of the District Government?

A. While the representatives of the Department of State have generally indicated to members of the Executive Branch that they are generally concerned about the length of time required to process applications and their perception that the zoning regulations discrimate unfairly against chanceries, I am not aware that these concerns have been discussed with members of the Zoning Commission and the Board of Zoning Adjustment. Two points of clarifications should be noted in this regard. In various meetings between the representatives of the Department of State and the city, certain staff members of the Commission and the BZA were present. Further, it would probably not be appropriate for the Department of State to engage in conversations with the members of these bodies in terms of fashioning alterations to the regulations concerning chanceries because of the quasi-judicial nature of these bodies.

With respect to the exact nature of the problem, no correspondence from the Department of State has been received by the members of the Executive Branch during my administration.

Q. Do you perceive that there exists problems with the current BZA approval process for chancery locations, modifications, or expansions? Please describe.

A. I do not perceive any problems with the current BZA approval process for chancery locations, modifications, or expansions. As you are aware, the current regulations were prepared as a response to the National Capital Planning Commission's Foreign Missions and International Agencies Element of the Comprehensive Plan. The process is designed to afford citizens an adequate opportunity to express their views on matters of importance to their neighborhoods while assuring applicants that a reasonable decision will be rendered.

Q. In the past ten years, how many foreign governments have applied for chancery purposes before the BZA and how many have been denied?

A. In the past ten years, nine foreign governments have applied to the BZA for chancery purposes and one application (Bangladesh) was denied.

Q. Have any of the BZA decisions been contested in court? If so, please describe the appeal and decision.

A. No BZA decisions have been contested in court on the matter of chanceries.

AGENCY COMMENTS

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

MARION BARRY, JR.
MAYOR

February 18, 1982

The Honorable Charles McC. Mathias
Committee on Governmental Affairs
United States Senate
358 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Mathias:

On behalf of the residents of the District of Columbia, I would like to take this opportunity to share with you my views regarding S. 854, the Foreign Missions Act, pending before the Senate Committee on Governmental Affairs.

We are opposed to Section 206 and Subsection 212(e) of this measure. These proposed provisions would abrograte the Home Rule powers of the District of Columbia Government.

For the reasons set forth in my enclosed testimony, presented before the Subcommittee on Governmental Efficiency and the District of Columbia on January 25, 1982, I urge you to vote to delete these onerous provisions.

I trust that after careful consideration of this matter, you will vote to protect the interests of the citizens of the District of Columbia and thereby affirm the precious democratic principles of representative government throughout our nation.

Sincerely,

Marion S. Barry, Jr.
Mayor

Enclosure

THE SECRETARY OF STATE
WASHINGTON

March 3, 1982

Dear Mr. Chairman:

I would urge you and your Committee to act favorably on S. 854 as reported out by the Senate Foreign Relations Committee and as passed by the House of Representatives.

The Administration considers the Foreign Missions Act to be an important diplomatic initiative which encompasses both foreign policy and national security concerns.

We believe that Section 206 of the bill, which balances federal and District of Columbia interests in determining the location of chanceries in the capital city, is an important element of this legislation. Section 206, as reported out by the Foreign Relations Committee, is a compromise achieved during Congressional hearings in both the Senate and House.

Sincerely,

Alexander M. Haig, Jr.

The Honorable
William V. Roth, Jr., Chairman,
Governmental Affairs Committee,
United States Senate.

DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

AUG 17 1981

Dear Mr. Chairman:

This is in reply to your request for the views of the Department of the Treasury concerning S. 854, a bill known as the Foreign Missions Act, and for certain information relating to the protection of diplomatic missions.

It is the position of the Department of the Treasury that the United States Secret Service must retain its present authority to determine the needs of foreign missions relative to protection. Furthermore, the degree of protection accorded to a foreign mission must take into account other factors as well as the reciprocity accorded U.S. missions abroad. In this respect the Department must oppose vesting the new State Department Office of Foreign Missions with authority to dictate protective coverage. Such determinations should remain with the Secret Service. The Department therefore recommends that the Committee consider either the following new subsection of Section 204 of the State Department Basic Authorities Act of 1956,

> (f) Nothing in this section shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to Section 202 of Title 3, United States Code or Section 3056 of Title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service.

or that it place in the legislative history to accompany S. 854 the following:

> The concept of providing benefits on the basis of reciprocity does not extend to those protective services provided by the United States Secret Service under the authority of Section 202 of Title 3, United States Code, with respect to foreign diplomatic missions, or under the authority of Section 3056 of Title 18, United States Code, with respect to a visiting head of a foreign state or government or certain distinguished foreign visitors. It is not the intent of this legislation to impact upon or change in any way the authority or procedures of the United States Secret Service. Nor is it the intent of this legislation to influence the policy of the United States Secret Service to provide protection at a level which is commensurate with protective requirements.

Similarly, because the geographical location of a foreign mission is directly related to complex security related considerations, it is the view of the Department of the Treasury that the United States Secret Service be consulted prior to locating or relocating a foreign mission.

Otherwise, S. 854 represents a substantial improvement over earlier draft legislation on this subject in that Section 209 exempts international organizations from the provisions of the Act unless the Secretary of State determines otherwise. This is appropriate in view of the major purpose of the bill to remedy the growing imbalance between the treatment accorded in many countries to official missions of the United States and the treatment accorded foreign government missions in the United States. The Department anticipates that the Secretary of State would consult with the international organizations involved and with the Department of the Treasury prior to a determination to apply the provisions of the Act to the international financial organizations in the District of Columbia.

The following is provided in response to the specific information requested in your letter:

1. Description of current security measures and potential problems which the E.P.S. (U.S. Secret Service Uniformed Division) encounters in protecting foreign chanceries and missions:

   The United States Secret Service Uniformed Division provides security in the form of footbeats, fixed posts, cruiser patrols and scooter patrols for the protection of foreign missions in the Washington, DC area. Cruiser and scooter patrols are employed as a method of preventing unexpected and spontaneous acts of violence against any legation located in a Uniformed Division jurisdiction. Officers assigned to these patrols are trained to recognize items of a suspicious nature, such as explosive devices, and to identify persons who act in a hostile or questionable manner near or in an embassy location. Explosive detection teams utilizing canines are also employed by the Uniformed Division as patrol units. In addition to responding to specific threats directed against embassy locations, these teams patrol independently and conduct random sweeps of embassy locations in an effort to seek out and identify suspicious items.

Intelligence data is of paramount importance to the mission of the Uniformed Division in that it acts as an aid in the prediction and anticipation of future security problems involving a particular embassy or legation. The Uniformed Division often is inundated with requests for fixed posts from the various locations within its jurisdiction. Due to manpower and other limitations, however, not all of the requests can be honored. Intelligence data, together with an evaluation of the potential for adverse action directed against a location, must be used as criteria in determining which requests warrant increased protection by the Uniformed Division.

Terrorism is of great concern to the Uniformed Division and is a potential problem to the success of its mission. Again, intelligence information is used extensively in the construction of profiles of known terrorist groups and possible terrorist activity. Intelligence data is also analyzed to assist the Uniformed Division in anticipating acts of terrorism.

2. Description of the ideal situation, from a security and protection point of view, which the Department envisions for foreign governments in the District of Columbia as well as for U.S. offices overseas:

If all foreign government embassy locations were limited to specific geographical areas (i.e., a ten square block area within the District that included only the diplomatic locations), the Uniformed Division could provide more efficient protection. This plan would not be a panacea, however, since several different governments within this designated area could have conflicting schedules of events resulting in traffic and pedestrian congestion and thereby possibly compromising security efforts. An alternative would be to have most diplomatic premises located as close to each other as reasonably possible.

Since not all foreign governments are news makers or controversial in their public statements, their levels of protective need vary. All foreign mission locations, however, are entitled to the highest level of protection that available resourcs permit. Most foreign governments having missions outside the District of Columbia are served by local law enforcement agencies on a day-to-day basis. Occasionally, there is an immediate need for increased levels of protection that local law enforcement agencies cannot provide. In an ideal situation, the Uniformed Division would have the available resources to detail a reserve force to meet these exigencies on an individual basis.

With respect to U.S. offices overseas, the Department defers to the Department of State as to the ideal security and protection activities which should be afforded by a host government.

3. The extent to which the Department of the Treasury participates or comments in proceedings before the District of Columbia Zoning Commission or Board of Zoning Adjustments in cases involving foreign governments:

   This office is not aware of any case in which the Department of the Treasury has participated or commented in any case involving a foreign government.

   The Secretary has commented in at least one instance in recent years on matters involving building in the District of Columbia by the international financial institutions located here.

   In February, 1980, the Secretary, who is U.S. Governor of the International Monetary Fund (IMF) and instructs U.S. representatives in the IMF, wrote to the District of Columbia Zoning Commission to describe the Federal interest in the case of the IMF's application for zoning authority to construct an additional building adjacent to its headquarters. The Secretary stated that the United States has a responsibility, both as host government and the government responsible for the present location of the IMF headquarters, to assure that accommodations for the IMF continue to be adequate for the IMF's efficient and effective operation.

Subject to the considerations discussed above, the Department of the Treasury does not object to the enactment of S. 854.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

Jordan Luke
Acting Deputy General Counsel

The Honorable
Charles McC. Mathias, Jr., Chairman
Subcommittee on Governmental Efficiency
and the District of Columbia
United States Senate
Washington, DC 20510

ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

March 5, 1982

The Honorable William V. Roth, Jr.
Chairman
Committee on Governmental Affairs
3215 Dirksen Senate Office Building
Washington, D.C. 20510

Attn: Miss Pauline Hildebrandt

Dear Mr. Chairman:

This is in response to the Committee's request for the views of the Advisory Commission on Intergovernmental Relations on S. 854,

> To promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of United States missions abroad.

The Commission has not studied the subject matter of this proposed legislation, and therefore has no comments to offer regarding its intergovernmental effects.

Sincerely,

Carl W. Stenberg
Acting Executive Director

LETTERS

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

MARION BARRY, JR.
MAYOR

April 2, 1981

The Honorable William S. Broomfield
Ranking Minority Member
Committee on Foreign Affairs
U.S. House of Representatives
B360 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Broomfield:

I understand that the Committee on Foreign Affairs will be considering draft legislation this morning to authorize appropriations for the Department of State for Fiscal Years 1982 and 1983. We were advised by the Committee staff yesterday afternoon that the draft legislation might be amended to: (1) eliminate the current jurisdiction of the District of Columbia Zoning Commission and the Board of Zoning Adjustment over the location and design of embassies, chanceries, and facilities of international organizations in the District of Columbia, and (2) grant the National Capital Planning Commission in-lieu-of zoning authority over such decisions. I am opposed to this proposal.

I fully understand the importance of the location of chanceries in the context of foreign relations and diplomatic reciprocity. Moreover, I am sympathetic with the need to come to better grips with the process for locating new and expanding existing chanceries in the District of Columbia. The District of Columbia Government has over the years sought to work cooperatively with the Department of State and the National Capital Planning Commission, to resolve outstanding administrative and policy issues with respect to chancery locations, and with a significant measure of success. The areas of the city wherein foreign missions may locate under the "Foreign Missions and International Agencies Element" of the Comprehensive Plan for the National Capital is very much greater georgraphically today, because of District Government initiatives, than under the plan element and map originally proposed by the National Capital Planning Commission.

The proposed amendment incorporates revisions to similar legislation (S. 2866, the "Diplomatic Reciprocity Act"), introduced in the 96th Congress by former Senator Frank Church. While we have not had an adequate opportunity to fully evaluate the impact of the revised proposal on the District of Columbia Government or our residents, the revised proposal appears to give some recognition to the facts that chancery location decisions can have a dramatic impact on the city's residential neighborhoods and that District residents must have an adequate opportunity to participate in the decision-making process. Thus, the revised proposal does constitute a vast improvement over the provisions of S. 2866. Nevertheless, we believe that the revised proposal is insufficient to protect legitimate local interests and would adversely affect the welfare of our citizens. The proposed amendment would also have serious implications with respect ot the integrity of the District of Columbia Self-Government and Governmental Reorganization Act (the Home Rule Act). Accordingly, I remain opposed to the proposed transfer of jurisdiction from the Zoning Commission to the National Capital Planning Commission.

In view of the late notice of the Committee mark-up, I respectively request that the Committee accord the District of Columbia Government a reasonable opportunity to review this proposal, which would not only alter its governmental structure and authority, but would also adversely affect the welfare of our citizens.

If you wish to discuss this matter, please call me or Barbara C. Washington, Assistant City Administrator for Intergovernmental Relations on 727-6265. Your attention and cooperation are appreciated.

Sincerely,

Marion S. Barry, Jr.
Mayor

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

MARION BARRY, JR.
MAYOR

April 28, 1981

The Honorable Charles McC. Mathias, Jr.
Chairman
Subcommittee on Governmental Efficiency
and the District of Columbia
Committee on Governmental Affairs
United States Senate
6222 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

This is to advise you of the District of Columbia Government's views on S. 854, the "Foreign Missions Act of 1982". The bill would: (1) eliminate the current jurisdiction of the District of Columbia Zoning Commission and the Board of Zoning Adjustment over the location and design of embassies, chanceries, and facilities of international organizations in the District of Columbia, and (2) grant the National Capital Planning Commission in-lieu-of zoning authority over such decisions.

We fully understand the importance of the location of chanceries in the context of foreign relations and diplomatic reciprocity. Moreover, we are sympathetic with the need to improve the process of locating new and expanding existing chanceries in the District of Columbia. The District of Columbia Government has over the years sought to work cooperatively with the Department of State and the National Capital Planning Commission, to resolve outstanding administrative and policy issues with respect to chancery locations, and with a significant measure of success. The areas of the city wherein foreign missions may locate under the "Foreign Missions and International Agencies Element" of the Comprehensive Plan for the National Capital is very much greater geographically today, because of District Government initiatives, than under the plan element and map originally proposed by the National Capital Planning Commission.

S. 854 incorporates revisions to similar legislation (S. 2866, the "Diplomatic Reciprocity Act"), introduced in the 96th Congress. The revisions give some recognition to the facts that chancery location decisions can have a dramatic impact on the city's residential neighborhoods and that District residents must have an adequate opportunity to participate in the decision making process. Nevertheless, we believe that the revisions are insufficient to protect legitimate local interests and would adversely affect the welfare of our citizens.

Moreover, S. 854 would alter the structure of the District of Columbia Government and thus has serious implications with respect to the integrity of the District of Columbia Self-Government and Governmental Reorganization Act (the Home Rule Act). Accordingly, we remain opposed to those provisions of S. 854 which transfer jurisdiction from the Zoning Commission to the National Capital Planning Commission with respect to chancery locations, and which would eliminate the applicability of local zoning regulations, designed to protect residential neighborhoods from encroachment by commercial and office facilities, to chancery facilities.

Should the Congress remain of the view that some adjustment is needed in the process by which chancery locations in the National Capital are determined, the District of Columbia Government believes that far less radical adjustments than those proposed in S. 854 should be first considered. The Zoning Commission and the Board of Zoning Adjustment, as independent instrumentalities of the District of Columbia Government, would be quite capable of implementing any new federal law which set different guidelines for decisions in this area. This approach has the advantage of assuring the integrity of the Home Rule government as it currently exists, while setting guidelines to be implemented by local agencies already charged by the Congress with zoning responsibilities. This approach would also avoid the preemption of local governmental concerns in the National Capital area in favor of a carefully tailored statute setting forth specific factors for the Zoning Commission and the Board of Zoning Adjustment to consider in the location of foreign chanceries.

We are in the process of meeting with representatives of the Department of State, so that we can be fully apprised of the justifications and need for this proposal. If you wish to discuss this matter, please call us or Barbara C. Washington, Assistant City Administrator for Intergovernmental Relations, on 727-6265 or Carol Richards, Special Assistant to the Chairman of the Council of the District of Columbia, on 724-8036.

Your attention and cooperation are appreciated.

Sincerely,

M Barry

Marion S. Barry, Jr.
Mayor

Arrington Dixon

Arrington L. Dixon
Chairman

NINETY-SEVENTH CONGRESS

RONALD V. DELLUMS, CALIF., CHAIRMAN

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EDWARD C. SYLVESTER, JR., STAFF DIRECTOR
JOHN GNORSKI, MINORITY STAFF DIRECTOR

TELEPHONE: 225-4457

U.S. House of Representatives
Committee on the District of Columbia
ESTABLISHED 27 JANUARY 1808
Room 1310, Longworth House Office Building
Washington, D.C. 20515

August 10, 1981

The Honorable Charles H. Percy
Chairman
Committee on Foreign Relations
United States Senate
4229 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing regarding your Committee's July 24th hearing on S. 854 and certain concerns pertinent to that bill.

Let me begin by thanking you, Mr. Chairman, for your timely and sincere remarks in your opening statement and your recognition of my efforts, on behalf of the Committee on the District of Columbia, to get the pertinent State Department and District of Columbia Government officials together to discuss solutions satisfactory to all parties responsible for facilitating the location of foreign missions and chanceries in the Nation's Capital.

After the June 4th hearing, on the provisions of S. 854 as contained in Title II of H.R. 3518 amending the District of Columbia Code, the Committee on the District of Columbia concluded that the State Department had not adequately justified the necessity for removing the chancery location zoning authority from the existing shared jurisdiction of the National Capital Planning Commission and the District of Columbia Zoning Commission - two quasi federal-local bodies with significant federal representation.

Notwithstanding that general conclusion, Mr. Chairman, the Committee on the District of Columbia and I concur with your observation that there is a clear federal interest involved in providing for the location of adequate office facilities for the representation of foreign governments in the Nation's Capital.

Furthermore, to advance that end, it is the conclusion of the Committee on the District of Columbia that administrative and legislative means are available short of removing from the National Capital Planning Commission and the D.C. Zoning Commission the basic authority to designate the areas and conditions for the location of foreign government office facilities.

It appears that such means are permissible within the requirements of United States treaty obligations to honor local law regulating the location of such office facilities. The pertinent parties can achieve an expedited zoning process for chancery locations, for example, if the State Department will seek authority to require foreign governments to initiate all site and building acquisitions and expansions with the proposed Office of Foreign Missions. Thereby, responsible legal, technical, and other assistance can be made available to foreign governments before difficulties arise. In addition, administrative and legislative means are available to enhance State Department representation of foreign government chancery applications throughout the review and approval process.

It would further appear that a solution incorporating the foregoing provisions would satisfy major State Department objections to the current process and the reciprocity difficulties of the United States in some foreign capitals.

There are workable solutions available without enacting the entire proposed effect of Sec. 206 of S. 854 which would profoundly alter the existing process of shared federal-local jurisdiction governing the location, alteration, and expansion of foreign government office facilities in the District of Columbia.

I am available to discuss these matters with you if you wish, or your staff may wish to contact Mr. Edward C. Sylvester, Jr., Committee Staff Director, for further explanation of this Committee's experiences in this matter.

Sincerely,

Ronald V. Dell

RONALD V. DELLUMS
Chairman
Committee on the District
of Columbia

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

MARION BARRY, JR.
MAYOR

November 6, 1981

Senator Charles H. Percy
United States Senate
Chairman
Committee on Foreign Relations
Washington, D.C. 20510

Dear Senator Percy:

In light of recent actions on the House floor concerning H.R. 4814 as it relates to the location of foreign missions in the District of Columbia, I would like to reiterate the positions of the Executive Branch of the District of Columbia. I remain opposed to the compromise proposal that I understand is being proposed for the following reasons:

1. The need for the legislative change has never been justified by the Department of State despite recent opportunities to clarify the issue before House and Senate Committees;
2. the National Capital Planning Commission (NCPC) has indicated by resolution that they do not see the need for the legislative change; and
3. the proposal removes the standing of citizens in the decision making process, which is not justified in my view.

Based on these considerations, I will continue to oppose this compromise and I would urge the Congress to delete this approach as an unnecessary intrusion on Home Rule. I hope that I can rely on your continued support and that of other Members who are concerned about the future of Home Rule and democratic principle of representative government in the District of Columbia.

Sincerely,

Marion S. Barry, Jr.
Mayor

cc: Members of Senate Foreign Relations Committee

WALTER E. FAUNTROY
District of Columbia

2135 Rayburn House Office Building
Washington, D.C. 20515
(202) 225-8050

District Office:
420 North Capitol Street
Suite 318, Amtrak Building
Washington, D.C. 20001
(202) 275-0171

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEE ON
DISTRICT OF COLUMBIA

SUBCOMMITTEES:
FISCAL AFFAIRS AND
HEALTH
GOVERNMENT OPERATIONS AND
METROPOLITAN AFFAIRS

COMMITTEE ON
BANKING, FINANCE AND
URBAN AFFAIRS

SUBCOMMITTEES:
CHAIRMAN, DOMESTIC
MONETARY POLICY
ECONOMIC STABILIZATION
GENERAL OVERSIGHT AND
RENEGOTIATION
HOUSING AND COMMUNITY
DEVELOPMENT

CHAIRMAN, CONGRESSIONAL
BLACK CAUCUS

January 28, 1982

The Honorable Charles McC. Mathias, Jr.
United States Senate
358 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator ~~Mathias~~: Mac

Recently, the Sub-Committee on Governmental Efficiency and the District of Columbia reported S. 854 with Amendments to the Full Committee. I am writing to ask you to support the Sub-Committee's action in deleting Section 206 of S. 854 and deleting the repeal of the Fulbright Act as contained in S. 854.

Your support of the Sub-Committee's position is solicited for several reasons. Section 206 calls for the creation of a Foreign Missions Commission to assume authority for approving locations of Foreign Embassies and Chanceries in the District of Columbia. Such Federal involvement in local zoning matters is unprecedented in the United States and similar foreign nations. Moreover, the current system of locating Foreign Missions in the District of Columbia works well, and proponents of this proposed radical departure from the existing process have shown no real justification for change.

The current system evolved from an Act of Congress in 1964, known as the Fulbright Act. Under that Act, no chancery is permitted to locate in a purely residential District and in medium or high density apartment building districts, chanceries are permitted to locate only if a special exception is obtained. The need to preserve residential areas is recognized in the Fulbright Act. Section 206 would remove the protection provided for residential areas.

In sum, section 206 and the repeal of the Fulbright Act would permit wholesale disregard of the interests and concerns of the local population, would result in sweeping and far-reaching change of a system which has worked well, and is totally lacking in justification for such change. Again, I ask for your support of the Sub-Committee's position when you consider S. 854.

Sincerely yours,

Walter

WALTER E. FAUNTROY
Member of Congress

COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

ARRINGTON DIXON
Chairman

February 2, 1982

The Honorable Charles McC. Mathias
Senator
358 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Mathias:

Shortly you will be asked to consider S-854, a bill that was reported by the Governmental Efficiency Subcommittee to the Senate Committee on Governmental Affairs. As reported by the Subcommittee, Section 206 of the bill is deleted, the section that repeals the Chancery Act of 1964.

As an elected official of the District of Columbia, I urge you to support the bill as reported by the subcommittee. As you know, the location of chanceries is a problem that has brought forth strong concern from District citizens because it is a question that goes to the heart of what they care about most -- their homes and their neighborhoods. I believe that the location of chanceries is a matter that should be left to local processes as the bill reported by your subcommittee provides. I assure you that our local District agencies will continue to show a strong sensitivity to the needs of foreign governments while respecting the rights of local citizens.

Thank you for your attention to this matter.

Sincerely,

ARRINGTON DIXON
Chairman

SHERIDAN-KALORAMA NEIGHBORHOOD COUNCIL

Fritz-Alan Korth
President
(202) 223-2630

1101 30th Street, N.W.
Suite #104
Washington, D.C. 20007

John D. Firestone
Secretary-Treasurer
(202) 337-8069

January 22, 1982

Honorable Charles McC. Mathias, Jr.
Chairman
Subcommittee on Governmental Efficiency
and the District of Columbia of the Senate
Governmental Affairs Committee
United States Senate, Room 358
Russell Senate Office Building
Washington, D.C. 20510

Foreign Missions Act of 1982 (S. 854)

Dear Mr. Chairman:

The residents of the Sheridan Kalorama neighborhood, who include a number who have served in the foreign service of the United States and a number of representatives of foreign governments, understand and, in general, support the stated purpose of S. 854 - "to address a serious and growing imbalance between the treatment accorded in many countries to official missions of the United States, and that made available to foreign government missions in the United States." Section 206 of S. 854, however, is inconsistent with the provisions of the Act which effectuate this purpose. It would, as a practical matter, enable foreign missions to acquire properties in areas which are residential and convert them to office use, even where such use is demonstrably incompatible with the present and proposed development of the neighborhood. In that no American citizen can do the same, it grants foreign missions an exception to our laws. Such an exception was not intended by Article 21 of the Vienna Convention, which the majority of delegates insisted take "sufficient account of the legal systems of the various States in which it would be in effect."

Section 206 would create a new Commission (the "District of Columbia Foreign Missions Commission") to redo, at substantial expense, what the National Capital Planning Commission and the District of Columbia Zoning Commission took several years to do. In granting this new Commission authority to establish, by rulemaking procedures, areas in which chanceries may be located as a matter of right, it eliminates the hearing which is now required to determine whether chancery use of a property in an area zoned for residential use is "not incompatible with the present and proposed development of the neighborhood."

The National Capital Planning Commission is on record as stating "that it has not yet been demonstrated to the Commission that there is a problem in the operation of the District zoning process for providing for the location of foreign missions . . . ." The existing regulatory approach protects the federal interest in the location of chanceries. It respects the letter and spirit of the Government's obligations to foreign missions under international agreement and custom. It is consistent with Congressional interest in the preservation of living spaces in the District of Columbia and the health and welfare of its residents, who pay the real estate, income and inheritance taxes upon which public services in the District depend. Section 206 should be deleted from S. 854.

Respectfully,

Fritz-Alan Korth
President

COMMITTEE OF 100 ON THE FEDERAL CITY
1307 NEW HAMPSHIRE AVENUE, WASHINGTON, D.C. 20036

FOUNDED 1923

January 19, 1982

Honorable Charles McC. Mathias, Jr.
358 RSOB
Washington, D.C. 20510

Dear Senator Mathias:

It is our understanding that the Senate Governmental Affairs Committee will be considering S 854 (the Foreign Missions bill) in the near future.

We approve of the principle of enabling our government to grant or withhold benefits to a foreign government on the basis of a rule of reciprocity where that government is withholding benefits from our mission abroad to which we are lawfully and reasonably entitled. However, we wish to point out that reciprocity does not imply that our government should be in a position to grant discretionary favor to a foreign mission which goes beyond what international law entitles them to and what our own law makes available to our own citizens.

We, therefore, are opposed to certain provisions of S 854 that eliminate the current jurisdiction of the D.C. Zoning Commission and the Board of Zoning Adjustment over the location of chanceries in the District of Columbia for the following reasons:

1. Enactment is unnecessary because the Federal interest is adequately represented under current procedures and these procedures are working satisfactorily.

2. The Vienna Convention on Diplomatic Relations does not require the kind of approach contained in S 854. Present procedures are completely consistent with the requirements of the Treaty.

3. There is a built-in flexibility in the present setup.

4. An overwhelming majority of the National Capital Planning Commission voted that they find no reason for changing present procedures.

5. Home rule would be badly impaired with respect to Zoning.

6. There is no difference between the offices of foreign governments and those of domestic corporations which would justify different zoning procedures.

7. It would appear that the security dangers involving embassies are as great, if not greater, than those involving chanceries. Nevertheless, the State Department does not suggest concentrating embassies in certain areas. It must be recognized that complete security can never be assured. It is a matter of degree. The slightly greater security in the State Department proposal for chanceries does not transcend all the negative arguments enumerated above.

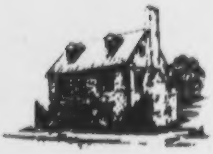
Sincerely yours,

Manon K Schlefer

(Mrs.) Manon K. Schlefer, Chairman

The Citizens Association of Georgetown

1656 33rd Street, N.W. • Washington, D. C. 20007
(202) 337-7313



November 10, 1981

RESOLVED:

The Citizens Association of Georgetown wishes to go on record as endorsing the Foreign Missions Act (S. 1818) introduced by Senators Mathias and Eagleton. We encourage its adoption in lieu of the original, identical bills on the same subject (S. 854 and H.R. 3518).

We approve of the principle of enabling our government to grant or withhold benefits to a foreign government on the basis of a rule of reciprocity. However, Section 206 of the original bills would have violated Home Rule precepts by removing zoning authority from the District government over chancery locations and uses. As a result, the original bills would have put the Federal government in a position to grant discretionary favors to foreign missions which go beyond what international law entitles them to and what our laws make available to our own citizens.

S. 1818 leaves intact the present D.C. Zoning Law and the two zoning bodies charged with implementing that law.

The Citizens Association of Georgetown

1656 33rd Street, N.W. • Washington, D. C. 20007
(202) 337-7313

3 February 1982

Government Affairs Committee Members
United States Senate

Shortly the Senators on the Government Affairs Committee will be asked to vote on S. 854 as amended by the Subcommittee on Government Efficiency and the District of Columbia. This Bill involves two issues of great interest to our community. Both issues have been addressed by the amendments offered by the Subcommittee.

The amended Bill would leave intact the Home Rule Charter as it relates to zoning and land use and it would remove the repeal of the Chancery Act of 1964. Because of the direct impact that both of these issues would have on our community, we have followed this Bill with great interest and endorse both amendments.

We urge the Senators on the Government Affairs Committee to vote favorably on S. 854 as amended.

Sincerely,

William Cochran

William Cochran, Chairman
Zoning Committee

D.C. FEDERATION OF CIVIC ASSOCIATIONS, INC.
[illegible]
Washington, D.C. [illegible]

President
Arthur V. Meigs

1st Vice President
[illegible] P. [illegible]

2nd Vice President
Robert E. Mason

3rd Vice President
Lillian J. Huff

Recording Secretary
Roberta T. Chesnut

Asst. Recording Sec'y
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Correspondence Sec'y
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George Boyd

Appointed Officers

Archivist
Gregory R. New

Chaplain
Rev. William B. Bynum

Parliamentarian
Aretha W. Campbell

Sergeant-At-Arms
Simon L. Cain

June 8, 1981.

Hon. Charles McC. Mathias
Subcommittee on District of Columbia Affairs
United States Senate
Washington, D. C. 20510

Dear Senator Mathias:

We are appalled at the number of end-runs which appear to be in process these days in the Congress, aimed at cutting down the effect of the D. C. Home Rule Charter - apparently with the co-operation of those who have been friends in the past, those known as liberals.

The most recent has to do with the Chancery Act, initiated by former Senator Fulbright, and the Home Rule-conceived jurisdiction of our zoning authorities. Copy of a letter just written to Representative Dellums on this subject is enclosed.

Please do what you can to see that this infringement on our right to self-government is not enacted.

Sincerely and respectfully yours,
Arthur V. Meigs
Arthur V. Meigs, President

[illegible]
[illegible] 4543
Washington, D. C. 20017

June 8, 1981.

Hon. Ronald V. Dellums
Chairman
Committee on the District of Columbia
U. S. House of Representatives
Washington, D. C. 20515

Dear Representative Dellums:

The D. C. Federation, with which I know you are familiar, passed a resolution at its General Assembly May 22, 1981, and instructed me to inform you of it. It has to do with Senate Bill 854 concerning the establishment of chanceries in Washington.

The resolution reads in part: "We are opposed to any legislation that would eliminate the current jurisdiction of the D. C. Zoning Commission and the Board of Zoning Adjustment over the location and design of embassies, chanceries and facilities of international organizations in the District of Columbia, and that would grant in-lieu-of zoning authority to the National Capital Planning Commission."

As we understand it, such a move would supersede both the Fulbright Act which Congress itself passed to meet a crying need in Washington, - and equally importantly the Home Rule Charter, the result of generations of hope and hard work, in the area under discussion.

The citizens are not hostile to those who come to Washington representing the nations of the world. We have welcomed many embassy residences in our neighborhoods despite the pressure generated on local parking facilities, and other temporary threats to quiet. Office facilities are another matter, and we feel our people must have access to a public body at least indirectly responsive in full to them, to which they can address their petitions and convictions. Please help us in this matter.

Sincerely and respectfully yours,

Arthur V. Meigs, President

United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, D.C. 20510

June 15, 1981

Mr. Arthur V. Meigs
President
D.C. Federation of CIvic Associations, Inc.
P.O. Box 4549
Washington, D.C. 20017

Dear Mr. Meigs:

Thank you for sharing with me the letter of the D.C. Federation of Civic Associations to Representative Dellums concerning S.854, the Foreign Missions Act.

I appreciate knowing your views so that they might be considered by the Senate Subcommittee on Governmental Efficiency and the District of Columbia if and when it considers this legislation.

As you may know, the Senate D.C. Subcommittee has arranged a sequential referral of S.854 to the Subcommittee after the Senate Foreign Relations Committee has heard and reported the bill.

Thank you for bringing the position of the Federation to my attention.

With best wishes,

Sincerely,

Charles McC. Mathias, Jr.
United States Senator

CM:mtm

The Greater Washington
Board of Trade
Linking Business and Community in The District of Columbia, Northern Virginia and Suburban Maryland

Stephen D. Harlan
President

January 25, 1982

The Honorable Charles McC. Mathias
Chairman, Subcommittee on Governmental
Efficiency in the District of Columbia
United States Senate
Dirksen Office Building
Washington, D.C.

Dear Senator Mathias:

On behalf of the 1,400 businesses and professional firms who are members of The Greater Washington Board of Trade, I am writing to oppose the proposed changes to procedures for approval of foreign missions in the District of Columbia.

As we stated in our letter of August 13, 1981 to the Senate Committee on Foreign Relations, we believe the present approval process meets the requirements of the District of Columbia Self-Governmental Reorganization Act which states, "The Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law."

We urge you to oppose amendments to Senate Bill 854 which will reconstitute the Zoning Commission for purposes of considering the location of foreign missions. We believe that the existing framework for zoning decisions regarding chancery locations is effective and is in conformance with the law and principle of home rule for the District of Columbia.

Sincerely,

Stephen D Harlan

Stephen D. Harlan
President, The Greater Washington
Board of Trade

/lso

The Greater Washington **Board of Trade**

Linking Business and Community in The District of Columbia, Northern Virginia and Suburban Maryland

J. Pat Galloway
President

November 6, 1981

The Honorable Charles McC. Mathias
United States Senate
Washington, D.C. 20510

Dear Senator Mathias:

On behalf of The Greater Washington Board of Trade, I would like to reaffirm our position on Senate Bill 854 as expressed in the attached letter to Senator Charles Percy dated August 13th.

We urge you to support the deletion of those sections which remove the decision-making authority on chancery location from the District of Columbia government.

Sincerely yours,

J. Pat Galloway

J. Pat Galloway

attachment

/lso

The Greater Washington Board of Trade

Linking Business and Community in The District of Columbia, Northern Virginia and Suburban Maryland

August 13, 1981

The Honorable Charles H. Percy
Chairman, Committee on Foreign Relations
United States Senate
Dirksen Office Building
Washington, D.C.

Dear Chairman Percy:

On behalf of the 1500 businesses and professional firms who are members of The Greater Washington Board of Trade, I am writing in opposition to Section 206 of Senate Bill 854, which would give the National Capital Planning Commission in-lieu-of zoning authority to approve the location, height, bulk and size of a foreign mission in the District of Columbia.

The present procedure for approving the location of a chancery requires that the Board of Zoning Adjustment (BZA) carefully review proposals by foreign governments to locate chanceries within the mixed use diplomatic district as defined by the Zoning Commission. The BZA's review is to assure compatibility with the affected neighborhood. We feel that this procedure meets the requirements of the District of Columbia Self-Governmental Reorganization Act which states "The Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law."

We further believe that any improvements to the system of chancery location desired by the Department of State in the interest of national security and diplomatic reciprocity can be accomplished within the home rule framework for zoning. A review of chancery cases by the District of Columbia Office of Planning and Development shows that reviews are being accomplished in a reasonable period of time and that time savings will not be accomplished by transferring decision making to the NCPC. In fact, NCPC's status as a federal agency may add additional review time to meet the needs of NCPC's Section 106 Historic Preservation review and possibly a review under the requirements of the National Environmental Policy Act (NEPA).

We urge you to delete Section 106 of Senate Bill 854. We believe that the existing framework for zoning decisions regarding chancery locations is effective and is in conformance with the law and principle of home rule for the District of Columbia.

Sincerely,

J Pat Galloway

J. Pat Galloway
President, The Greater Washington
Board of Trade

cc: Senator Claiborne Pell
Senator Charles McC. Mathias
Senator Thomas F. Eagleton

JPG/lso

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3902 W STREET, N.W. 20007
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Federation of Citizens Associations of the District of Columbia

ORGANIZED MARCH 5, 1910 ¤ INCORPORATED JUNE 3, 1940

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122 Third Street, N. E.
Washington, D. C. 20002
June 11, 1982

Honorable Charles McC. Mathias, Jr.
United States Senate
Washington, D. C. 20510

My dear Senator Mathias:

By authority of Federation President Koczak, this letter certifies our official position regarding bill S-854, Foreign Missions Act.

By resolution unanimously approved at our regular meeting assembled May 13, and unanimously reaffirmed at our regular meeting June 10, we were concerned with and supported only the Senate amendment of Section 206, subsection 212(2) of S-854, opposing the establishment of a D. C. Foreign Missions Commission.

I hereby request return of our letter of June 3 which contains erroneous statements, and the acceptance of this letter for the record in lieu thereof.

We are very grateful for your efforts on behalf of the citizens of the District of Columbia in this matter.

Sincerely yours,

A. M. Bickerdyke
Mrs. A. M. Bickerdyke
Chairman, Law and Legislation Committee

ZONING FOR CHANCERIES AND CONSULATES: BACKGROUND

THE CHIEF OF PROTOCOL
DEPARTMENT OF STATE
WASHINGTON, D.C. 20520

July 13, 1977

Mr. Charles Conrad
Executive Director
National Capital Planning Commission
1325 G Street, N.W.
Washington, D.C. 20576

Dear Mr. Conrad:

Secretary Vance has asked me to reply to Mr. Oberlander's letter of May 13 enclosing for review copies of the Commission's proposed Foreign Missions and International Agencies element and related modifications to other elements of the Comprehensive Plan for the National Capital, together with copies of the supporting documents, the Planning Report and the Description of Environmental Impact.

As I am sure you are well aware, the Department of State is vitally interested in the ability of Washington, as a world center of diplomatic activity, to respond promptly and adequately to the space needs of a community of foreign missions and international agencies which continues to grow. At the same time we recognize that those responsible for the overall planning for further development of the National Capital must endeavor to guide this growth in such a way as to meet the special needs of the Department's clientele while preserving the city's essential integrity and harmony to the maximum extent. At the outset, therefore, let me express our appreciation for the constructive and cooperative way in which the National Capital Planning Commission has utilized the specialized knowledge and experience of State Department representatives in this important undertaking.

The Department regards the proposed Foreign Missions and International Agencies element as a constructive document, in that, through it, for the first time in the history of the capital city areas where foreign embassies should locate their chanceries have been defined for guidance.

The Department approves the proposed plan in general. The Department, however, notes that it is of critical importance that the location of foreign missions be considered essentially as a Federal element in planning for the District, and further as a category clearly distinguishable from and requiring separate treatment from that accorded commercial office use generally. Foreign missions are required in keeping with international practice to locate in the District of Columbia, and the United States pursuant to the Vienna Convention on Diplomatic Relations is obligated to assist foreign governments in obtaining facilities suitable for diplomatic representation. The ability of the United States Government to meet that obligation necessarily impacts on the ability of our overseas missions in the many capitals around the world to obtain suitable treatment, and affects the conduct of our foreign relations.

The Department of State fully recognizes planning requirements for the District as a whole, and the need to integrate that planning with local needs in the differing communities of the District. It is, we believe, necessary in this connection to recall the continuing purpose for establishing the District of Columbia - first, to create a federal territory for the Government of the United States, and secondarily to provide for foreign government representation in the District together with other facilities necessary for the conduct of government activities. The method of assuring the availability of space suitable for diplomatic representation should, therefore, be accorded the substantial weight it historically requires in order to balance that requirement with other community needs ancillary to the main purposes of the establishment of this District as the seat of the Federal Government.

Thus, in order to meet the historic need to assure the ability of our Government to accommodate foreign governments in our capital, the Department fully supports the use of flexible criteria in the proposed additions and modifications of the comprehensive plan, and will support the adoption of implementing procedures and regulations designed both to assure flexibility and to preclude the imposition of restrictive conditions unreasonably impairing the ability of the United States to fulfill its obligations as a host government.

We assure you of the Department's continued collaboration in this process.

Sincerely,

Evan S. Dobelle

Evan S. Dobelle

DEPARTMENT OF STATE
Washington, D.C. 20520

October 5, 1977

NCPC

The Honorable David M. Childs
Chairman
National Capital Planning Commission
1325 G Street, N.W.
Washington, D.C. 20576

Re: Proposed Foreign Missions and
International Agencies Element
of the Comprehensive Plan
for the National Capital

Dear Mr. Childs:

The Department of State endorses the revised Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital dated September 30 and strongly supports the approval and adoption of the Element by the Commission in accordance with our comments herein.

The adoption of this Element of the Comprehensive Plan will assist the Federal Government in fulfilling its obligations and responsibilities under law to plan for the proper functioning of Federal government activities in the District of Columbia, which includes planning for the location of official foreign missions to our Government in this Capital city.

In connection with our endorsement of the proposed Element, and in order to confirm the purpose and intent of the provisions therein, we would propose a modification in the draft Resolution by which the Commission will adopt the Element; we have, in addition, set forth our interpretation of certain provisions of the Element in order that upon adoption it will be interpreted and applied in a manner consistent with the intent of the Commission:

1. The draft Resolution should, in our opinion, be modified by inserting in the second operative paragraph

of the resolution after the words "'Zoning Regulations')" the following provision in order to assure proper implementation of the Element after its adoption:

> "and any amendment to the zoning maps proposed to be adopted by the Zoning Commission after public hearing on such application or final planned unit development proposed to be approved by the Zoning Commission after a hearing on a final application under Section 7501 of the Zoning Regulations for which such preliminary application has been approved shall be deemed to be not inconsistent with the Foreign Missions and International Agencies element of the comprehensive plan within the meaning of Section 2 of the Act of June 20, 1938, as amended by Section 492(b) of the Home Rule Act (herein after called the Zoning Act')"

2. It is the understanding of the Department of State that Sections 313.41 and 313.411, and the terms therein "shall be permitted to locate", are intended to and will permit Chancery, Chancery-Annex, and combined Chancery-Embassy use as a matter of right in all areas designated therein, except for subsection (c), where provisions of the Fulbright Act with respect to Board of Zoning Adjustment review will be operative, and further that any implementing zoning regulations, except under subsection (c), would permit such use as a matter of right, and not as a special exception. It is further understood, of course, that nothing therein would preclude appropriate control of height, bulk, parking and related development impacts through zoning regulations.

3. It is also the understanding of the Department that Sections 313.60 _et seq_. (Plan Policies) are subject to the controlling criteria set forth in Section 313.411 (as reflected in the language of Section 313.62), and that location of uses permitted by this Element shall be a matter of right as described above. The provisions of the last sentence of Section 313.64 must therefore to be consistent be interpreted as terms of recommendation, encouraging retention of residential use for "smaller

buildings", where practicable to fulfill the intended function of a foreign mission or international agency, and consistent with the development planned for that purpose.

On behalf of the Department of State I should like in closing to express our appreciation to the Commission and its staff for the constructive effort over a considerable period of time which has resulted in the preparation of this important planning document.

Sincerely,

Stuart W. Rockwell

Stuart W. Rockwell
Acting Chief of Protocol

DEPARTMENT OF STATE
Washington, D.C. 20520

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NCPC

Honorable David M. Childs
Chairman
National Capital Planning Commission
1325 G Street, N.W.
Washington, D. C. 20576

Dear Mr. Childs:

I am enclosing a copy of a letter addressed to Ambassador Evan S. Dobelle, Chief of Protocol, on August 1 by Mr. R. C. Westlake, Acting Director General of the International Telecommunications Satellite Organization ("INTELSAT"). Mr. Westlake urges modification of the proposed Foreign Missions and International Agencies element of NCPC's Long Range Comprehensive Plan for the National Capital, so as to include the L'Enfant Plaza as an area in which the growth of international organizations would be permitted.

Since the Office of Protocol is responsible primarily for representing the interests of foreign diplomatic missions in the Long Range Plan, it has referred INTELSAT's problem to the office within the Department of State which has cognizance over United States participation in that international organization.

As NCPC resumes its deliberations on the proposed element on August 11, we urge that the Commission give most careful consideration to INTELSAT's request to be permitted to remain and grow, as needed, in its present location. We would like to emphasize particularly the importance of maintaining INTELSAT's location adjacent to the Satellite Operations and Control Centers. The Centers are managed presently by the COMSAT Corporation under contract but will be taken over by INTELSAT when that contract expires in 1979. The installation is an advanced communications center controlling the entire global satellite system.

We believe the organization's arguments for this modification of the Long Range Plan, particularly in the light of the projected expansion of its responsibilities, have much merit, and we fully endorse its request.

Sincerely yours,

Joel W. Biller
Deputy Assistant Secretary
for Transportation,
Telecommunications and
Commercial Affairs

Enclosure:

As stated above.

INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION
ORGANISATION INTERNATIONALE DE TELECOMMUNICATIONS PAR SATELLITES
ORGANIZACION INTERNACIONAL DE TELECOMUNICACIONES POR SATELITE

August 1, 1977

Honorable
Evan S. Dobelle
Chief of Protocol
Department of State
Washington, D. C. 20520

Sir:

We would like to bring to your attention our concern over the proposed Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital presently under consideration by the National Capital Planning Commission. As the Director General of INTELSAT indicated to the commission in his letter of July 12, 1977, to Mr. Oberlander (Attachment A), INTELSAT is presently facing the need to locate additional office space to accommodate the expanding staff and operations contemplated under the INTELSAT Agreements (TIAS 7532).

It appears that, at least if the view of the Planning Commission prevails, INTELSAT and other international organizations would be restricted in their choices of new facilities to designated areas which do not include Southwest Washington, where INTELSAT headquarters are now located, or a number of areas in the city where commercial office use is now permitted as a matter of right. We believe that any system under which INTELSAT would be precluded from locating its offices on the basis of its status as an international organization rather than on the basis of the use to which the property would be put is unreasonable and unfair. Moreover, this could result in substantial practical inconvenience to INTELSAT, whose Satellite Operations and Control Centers, and Management Services Contractor, are located in the adjacent COMSAT Building at L'Enfant Plaza.

490 L'ENFANT PLAZA, SW WASHINGTON, D.C. 20024 TELEX 89-2707 TELEPHONE (202) 488-2300

I know that the Government of the United States is mindful of its obligations as host government to INTELSAT. Accordingly, I trust that the Government of the United States will take such steps as may be necessary to assure that the efficient operation of INTELSAT will not be hampered by discriminatory regulations of the kind that have been proposed. In this respect, we would be pleased to meet with you should you find that helpful.

Very truly yours,

R. C. Westlake
Acting Director General

Enclosure

cc: Mr. Joel W. Biller
Deputy Assistant Secretary
for Transportation, Telecommunications
and Commercial Affairs

IN REPLY REFER TO:
NCPC File No. 1203

JAN 11 1978

Mr. Joel W. Biller
Deputy Assistant Secretary for
Transportation, Telecommunications
and Commercial Affairs
Department of State
Washington, D. C. 20520

Dear Mr. Biller:

We have received your letter of January 3, 1978 regarding INTELSAT's concern with regard to the Foreign Mission and International Agencies element of the Comprehensive Plan adopted by the Commission on October 6, 1977. The Commission solicited comments on the proposed Plan Element from all the affected International Agencies, all the Foreign Missions, the State Department and other Federal agencies, and the community prior to the adoption of the Element.

On July 12, 1977, Director General Astrain of INTELSAT responded with comments in a letter to the Commission. Your letter of August 10, 1977 defined and supported INTELSAT's desire to remain and expand at its present location in the L'Enfant Plaza. Mr. Geoffery Cheadle of INTELSAT was also on hand to testify before the Commission at its meeting on July 14, 1976 and to answer the Commission's questions.

As a result of the information presented in the letters and in the testimony, the Commission modified the proposed plan element to include areas such as the Southwest Federal Center, which includes the L'Enfant Plaza area, as a location for International Agencies, as well as to add the multi-purpose Uptown Centers located outside the downtown area.

After receiving favorable comments on the proposed modifications and the endorsement of the modified Plan Element by the Department of State, the Commission adopted the Plan Element on October 6, 1977 in accordance with the National Capital Planning Act of 1952, as amended by the District of Columbia Self Government and Governmental Reorganization Act.

In accordance with the criteria established in the enclosed adopted plan element, International Agencies are permitted to locate in areas within the City as generally indicated on the "Foreign Missions and International Agencies" diagram in the adopted Element as "Chancery Facilities and International Agencies" and as "Chancery Facilities and International Agencies at Uptown Centers". These areas are, generally speaking, predominantly office use areas or areas of mixed-uses as designated on the General Land Use Objectives diagram which is also a part of the Comprehensive Plan for the National Capital. These areas were considered appropriate by the Commission as locations for all types of future office functions and provide a variety of locational choices with good transit access.

We hope that this clarifys the Commission's previously discussions relative to INTELSAT's situation and the position actions taken by the Commission to meet their concerns and your concerns as expressed in your letter of August 10, 1977.

We would be pleased to meet with you and representatives of INTELSAT to further discuss INTELSAT's plans for expanding its functions in the National Capital and to provide any assistance that we can.

Sincerely yours,

(Sgd.) Charles H. Conrad

Charles H. Conrad
Executive Director

Enclosure

cc:
Mr. Burman, State Department
Mr. Dobelle, State Department
Mr. H. Davis, State Department
Mr. Shear
Mr. Hromanik
Mr. Bozarth

DFB ECHo

DFBozarth/ECHromanik/glw 1/11/78

DEPARTMENT OF STATE
Washington, D.C. 20520

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JAN 4 AM 11 18

NCPC

Honorable David M. Childs
Chairman
National Capital Planning Commission
1325 G Street, N.W.
Washington, D.C. 20576

Dear Mr. Childs:

This letter is a follow-up to mine of August 10 relating to INTELSAT's concern over implementation of the NCPC's comprehensive plan for the National Capital. Specifically INTELSAT has expressed its interest in ensuring that it and other international organizations headquartered in Washington, D.C. are not discriminated against with respect to locations in the city in which they are permitted to locate their office.

To date I have received no response to my August 10 letter, which forwarded a copy of the August 1 letter from INTELSAT's Acting Director General, R. C. Westlake. I have now received another letter dated November 2 from Mr. Westlake (copy enclosed) referring to the decision of the NCPC to adopt a plan which, according to INTELSAT, fails to reflect comments which INTELSAT made during consideration of the plan. I am writing at this time to emphasize the responsibility of the United States Government, as voluntary host to international organizations such as INTELSAT, to assist such organizations in carrying out their official functions in this country and in finding suitable accommodations in which to do so. In this vein the Department of State renews its request to the NCPC to give fill consideration to the concerns of INTELSAT and volunteers whatever assistance it can render in finalizing arrangements which are beneficial to all parties concerned.

The Department would further appreciate relevant information on any recent actions taken by the NCPC which may affect INTELSAT and its operations in the city of Washington.

Sincerely yours,

Joel W. Biller
Deputy Assistant Secretary
for Transportation,
Telecommunications and
Commercial Affairs

Enclosure:

As stated

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET NW.
WASHINGTON, D.C. 20576

IN REPLY REFER TO:
NCPC File No. 1760

SEP 13 1978

Zoning Commission for the
District of Columbia
District Building, Room 11
Washington, D.C. 20004

Members of the Commission:

The National Capital Planning Commission, at its meeting on September 12, 1978, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), reported to the Zoning Commission for the District of Columbia on its proposed amendments to the text and maps of the Zoning Regulations providing for the location of embassies, chanceries and international agencies (Cases Nos. 77-45 and 77-46) that the proposed amendments (1) are not inconsistent with the Comprehensive Plan for the National Capital and (2) will not have an adverse impact on the interests and functions of the Federal Establishment in the National Capital, provided that the Comprehensive Plan is amended as set forth in Modification No. 78-4 to the Comprehensive Plan, which modification is authorized to be circulated to appropriate Federal and District of Columbia authorities for comment and recommendations in accordance with Section 4(e) of the National Capital Planning Act of 1952, as amended, and provided further that the proposed amendments to the text of the Zoning Regulations are modified to:

(a) permit a chancery in a Mixed Use Diplomatic (D) District provided only that the Board of Zoning Adjustment determines, after a public hearing, that

(i) the height of the building does not exceed the maximum permitted in the applicable combined District in which it is located,

(ii) the percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable combined District in which it is located,

(iii) the maximum FAR does not exceed the FAR prescribed for the applicable combined District in which it is located or an FAR of 1.5, whichever is greater, and

[illegible]

EXHIBIT No. 16-1

(iv) off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use;

(b) permit a new chancery only in SP and C-2-A Districts mapped on the Foreign Missions and International Agencies diagram of the Comprehensive Plan;

(c) permit a chancery in a SP District as a matter-of-right;

(d) permit a new international agency use only in any SP, C-2-B, C-3, C-4, or C-5 District mapped on the diagram; and

(e) permit the expansion or replacement of an international agency use in any R-5-C, R-5-D, SP, or CR District.

A copy of the Executive Director's Recommendation, as approved by the Commission, is enclosed for your information.

Sincerely yours,

Charles H. Conrad

Charles H. Conrad
Executive Director

Enclosure

REQUESTED

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET NW.
WASHINGTON, D.C. 20576

NCPC File No. 1760

PROPOSED AMENDMENTS TO THE TEXT AND MAPS OF THE ZONING REGULATIONS OF THE DISTRICT OF COLUMBIA RELATING TO DIPLOMATIC ZONES (ZONING COMMISSION CASES NOS. 77-45 AND 77-46)

Executive Director's Recommendation

September 6, 1978

The Executive Director recommends that the Commission, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), report to the Zoning Commission for the District of Columbia on its proposed amendments to the text and maps of the Zoning Regulations providing for the location of embassies, chanceries and international agencies (Cases Nos. 77-45 and 77-46) that the proposed amendments (1) are not inconsistent with the Comprehensive Plan for the National Capital and (2) will not have an adverse impact on the interests and functions of the Federal Establishment in the National Capital, provided that the Comprehensive Plan is amended as set forth in Modification No. 78-4 to the Comprehensive Plan, which modification is authorized to be circulated to appropriate Federal and District of Columbia authorities for comment and recommendations in accordance with Section 4(e) of the National Capital Planning Act of 1952, as amended, and provided further that the proposed amendments to the text of the Zoning Regulations are modified to:

ZONING COMMISSION
DISTRICT OF COLUMBIA
1978 SEP 8 PM 1 16

(a) permit a chancery in a Mixed Use Diplomatic (D) District provided only that the Board of Zoning Adjustment determines, after a public hearing, that

(i) the height of the building does not exceed the maximum permitted in the applicable combined District in which it is located,

(ii) the percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable combined District in which it is located,

(iii) the maximum FAR does not exceed the FAR prescribed for the applicable combined District in which it is located or an FAR of 1.5, whichever is greater, and

(iv) off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use;

(b) permit a new chancery only in SP and C-2-A Districts mapped on the Foreign Missions and International Agencies diagram of the Comprehensive Plan;

(c) permit a chancery in a SP District as a matter-of-right;

(d) permit a new international agency use only in any SP, C-2-B, C-3, C-4, or C-5 District mapped on the diagram; and

(e) permit the expansion or replacement of an international agency use in any R-5-C, R-5-D, SP, or CR District.

* * *

The proposed amendments to the text and maps of the Zoning Regulations of the District of Columbia (Cases Nos. 77-45 and 77-46), referred to the Commission for review and comment pursuant to D.C. Code, sec. 5-417, are intended to implement the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital. The proposal provides for the location of chanceries in a mixed use diplomatic district (D) and for the location of chanceries and international agencies in certain other districts.

Proposed Regulations

The D district would be mapped in combination with any existing district more restrictive than R-5-C and would be designated as D/R-1-A, D/R-1-B, D/R-2, D/R-3, D/R-4, D/R-5-A, and D/R-5-B. The amendments would make chanceries in D, R-5-C, R-5-D, SP and C-2-A districts "special exception" uses subject to the approval of the Board of Zoning Adjustment and provide for review and processing as follows:

"Section 4603 -- Review Standards

"4603.1 -- In areas mapped D, R-5-C, R-5-D, SP, or C-2-A, a Chancery is a permitted use, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed use and the building in which the use is to be located are compatible with the present and proposed development of the neighborhood.

"4603.2 -- In determining compatibility with the present and proposed development of the neighborhood, the Board of Zoning Adjustment must find that:

"4603.21 -- The architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood.

"4603.22 -- The height of the building does not exceed the maximum permitted in the applicable single or combined District in which it is located.

"4603.23 -- The percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable single or combined District in which it is located.

"4603.24 -- The maximum FAR does not exceed the FAR prescribed for the applicable single District or the combined Districts in which it is located or an FAR of 1.5, whichever is greater.

"4603.25 -- Except for Chanceries located in an R-5-C or an R-5-D District, off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use.

"4603.26 -- In an R-5-C District, off-street parking spaces will be provided at a ratio of not less than one such space for each twelve hundred (1,200) square feet of gross floor area devoted to Chancery use.

"4603.27 -- In an R-5-D District off-street parking spaces will be provided at a ratio of not less than one such space for each one thousand eight hundred (1,800) square feet of gross floor area devoted to Chancery use.

"4603.28 -- The use will not create dangerous or other objectionable traffic conditions.

"Section 4604 -- Process

"4604.1 -- The Board of Zoning Adjustment shall refer the application and site plan to the District of Columbia Municipal Planning Office (MPO) for coordination, review and report, said report to include any recommendations with respect to the application and site plan of other District departments and agencies including the Departments of Transportation, Environmental Services, and Housing and Community

Development. Comment also shall be requested of the U.S. Department of State, the National Capital Planning Commission, and in areas of its jurisdiction, the U.S. Commission of Fine Arts.

"4604.2 -- When the chancery is to be located in a designated historic district or historic landmark, the application shall be referred to the Historic Preservation Officer of the District of Columbia for a report on the impact of the proposed chancery on said district or landmark. To facilitate this review the applicant shall, at the request of the Historic Preservation Officer, submit exterior elevations of all buildings, and structures showing any proposed extension, alterations or additions. When mutually agreed, the Board of Zoning Adjustment shall have authority to arrange concurrent hearings with the Historic Preservation Officer.

"4604.3 -- In making its determination of compatibility, the Board of Zoning Adjustment may require such special treatment and impose such reasonable conditions as it shall deem necessary to mitigate any adverse impacts identified in accordance with Sections 4603 and 4604 in order to assure compatibility with the present and proposed development of the neighborhood. Such conditions may include but are not limited to the location of structures and facilities, off-street parking spaces, loading berths, curb cuts, and requirements for screening, noise control and the protection of historic districts and historic landmarks."

In other, less restrictive, districts (W, CR, C-2-B, C-3-A, C-3-B, C-4 and C-5) a chancery may locate as a matter of right provided it meets the height, yard, court, lot occupancy, floor area ratio, parking and loading berth requirements of the district in which it is to be located. The regulation also provides that chancery uses existing on the effective date of the amendments may expand or be replaced by other chancery uses, provided that in the R-1-A to R-5-B, C-1, C-2-A and SP districts any additions to the buildings or structures are approved by the Board of Zoning Adjustment. The proposed amendments would not change the present status of chanceries in the R-5-C and R-5-D districts which are subject to Board of Zoning Adjustment approval under the so-called Fulbright Act. The SP district regulations would no longer allow as a matter of right the conversion of an existing building to a chancery use. Embassies would continue to be located in any district where residences are allowed.

International agencies would be allowed in the SP, W, CR, C-2, C-3, C-4, C-5, C-M or M district subject to the standards of use, occupancy and development of the district in which it is located. However, in the SP and C-2-A districts, the use would be subject to the approval of the Board of Zoning Adjustment.

Pending applications under the Planned Unit Development procedures filed prior to October 6, 1977 (France, Italy, and the World Bank Group) would be processed under the existing regulations.

The proposed amendments would also revise the definitions of chancery and embassy and add definitions of historic landmark, historic district and international agency.

Conformance with Comprehensive Plan for the National Capital

The attached matrix provides a detailed comparison of the Comprehensive Plan element and the regulations proposed by the Zoning Commission. The matrix identifies which sections of the proposed regulations are consistent and which sections are inconsistent with the Comprehensive Plan and indicates Planning Commission and/or Zoning Commission actions which would eliminate each such inconsistency.

The principal inconsistencies are as follows:

1. The proposed regulations would not permit chanceries, chancery annexes and combined chancery/embassies as a matter of right in areas that meet the criteria and are mapped on the Foreign Missions and International Agencies diagram of the Comprehensive Plan element.

2. The proposed regulations and map amendments are inconsistent with the diagram to the extent that chanceries would be allowed in W, SP, C-2-A, and C-3 districts which are outside of areas designated on the diagram and international agencies would be allowed in SP, W, CR, C-2, C-3, C-M and M districts which are outside of areas designated on the diagram.

3. The proposed regulations do not permit the expansion of international agencies at existing locations as provided for in the Comprehensive Plan.

The Executive Director's recommendation includes proposed modifications to the Comprehensive Plan and to the proposed text amendments to the Zoning Regulations which, if adopted, would eliminate the inconsistencies between the Comprehensive Plan and the proposed regulations.

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET NW.
WASHINGTON, D.C. 20576

MODIFICATION NO. 78-4 TO THE COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL (FOREIGN MISSIONS AND INTERNATIONAL AGENCIES)

September 6, 1978

The Comprehensive Plan for the National Capital is amended as follows:

1. Amend the last sentence of paragraph 100.319 and the last sentence of paragraph 313.21 to read:

> "Locations that are compatible with the existing and future development of the National Capital and contribute to its qualities are desired."

2. Amend paragraph 313.41 to read:

> "To meet the objectives, new, expanded, or relocated Chanceries, Chancery Annexes, and Combined Chancery/Embassies, except as otherwise required by Public Law 88-659[1], or by an urban renewal plan adopted by the Commission and approved by the Council of the District of Columbia, shall be permitted, as a matter-of-right, to locate only in areas:"

3. Amend the footnote to paragraph 313.41 by deleting the last two sentences thereof.

4. Amend subparagraph 313.411 to read:

> "(1) designated on the 'General Land Use Objectives: 1970/1985' diagram for (a) predominantly office use, except areas under the jurisdiction of the Architect of the Capitol, or (b) mixed uses, including office, commercial, institutional and residential, or (2) along or in close proximity to arterial streets in which existing Chanceries, Chancery Annexes, and Combined Chancery/Embassies are concentrated, or (3) of existing commercial activity in which office uses are a significant, major, or principal component;".

ZONING COMMISSION
DISTRICT OF COLUMBIA
1978 SEP 13 AM 11: 16

Amend paragraph 313.42 by deleting "(NCPC Map File No. 04.00/100.00-28349)" and inserting in lieu thereof "(NCPC Map File No. 04.00/100.00-28525)".

6. Amend paragraph 313.51 to read:

> "To meet the objectives, new, expanded, or relocated facilities for International Agencies, except as otherwise required by an urban renewal plan adopted by the Commission and approved by the Council of the District of Columbia, shall be permitted, as a matter-of-right, to locate only in areas:"

7. Amend subparagraph 313.511 to read:

> "(1) designated on the 'General Land Use Objectives: 1970/1985' diagram for (a) predominantly office use, except areas under the jurisdiction of the Architect of the Capitol, or (b) mixed uses, including office, commercial, institutional and residential, or (2) of existing commercial activity in which office uses are the principal component;".

8. Amend paragraph 313.61 by deleting the word "principal".

9. Substitute the "Foreign Missions and International Agencies" diagram, NCPC Map File No. 04.00/100.00-28525, for the "Foreign Missions and International Agencies" diagram, NCPC Map File No. 04.00/100.00-28349.

* * *

In the June 22 statement on behalf of the Planning Commission to the Zoning Commission at the continuation of its hearing on Cases Nos. 77-45 and 77-46, zoning text and map amendments implementing the Foreign Missions and International Agencies element of the Comprehensive Plan, the Zoning Commission was advised that the Executive Director is prepared to recommend to the Planning Commission modifications to the Comprehensive Plan "which would permit the location of chanceries and international agencies in appropriate existing and planned office areas in addition to those already identified by the criteria in the Comprehensive Plan". In addition, the Executive Director recommends amendments that would further the objective in subparagraph 313.311 of the element of "protecting residential areas" by deleting the criterion relating to high density residential areas as locations for chancery facilities and thereby placing emphasis on locations in existing and planned office, mixed use, and commercial areas. Modification No. 78-4 contains such amendments, as well as several other conforming or technical amendments, all as described below.

The first amendment, in the part on "Goals for the National Capital" and in the section on Goals of the "Foreign Missions and International Agencies" element of the Comprehensive Plan, would make such provisions consistent with proposed amended subparagraphs 313.411 and 313.511 permitting the location of chanceries in certain areas of existing chancery concentrations and in existing commercial areas in which office uses are a significant, major, or principal component and permitting international agencies in existing commercial areas in which offices are the principal component.

The second and third amendments would make clear that (1) Public Law 88-659 permits chanceries in R-5-C and R-5-D districts under the Zoning Regulations whether or not such areas meet the criteria of paragraph 313.41 and are mapped on the Foreign Missions and International Agencies diagram, and (2) except for R-5-C and R-5-D districts, where chanceries are permitted as "special exception uses" in accordance with Public Law 88-659, chanceries are to be a permitted use as a "matter-of-right" in areas which meet the criteria of paragraph 313.41 and are mapped on the diagram.

The second and sixth amendments would also make clear that, notwithstanding the criteria in paragraphs 313.41 and 313.51, chancery facilities and international agencies are permitted or precluded in locations where such facilities are expressly permitted or precluded by urban renewal plans adopted and approved pursuant to the District of Columbia Redevelopment Act of 1945, as amended.

The fourth amendment would add a criterion to subparagraph 313.411 to permit chancery facilities in existing commercial areas in which office uses are a significant, major, or principal component. The fourth amendment would also delete the criterion in subparagraph 313.411 permitting chancery facilities in areas designated for "high density residential use" on the "General Land Use Objectives: 1970/1985" diagram. Portions of these areas are presently zoned R-5-C and R-5-D and chancery facilities are permitted therein as "special exception uses" pursuant to Public Law 88-659. Other portions of these areas meet the proposed new criterion relating to existing commercial areas in subparagraph 313.411.

The fifth amendment would change the text reference to that of the proposed revised diagram. The additional areas on the proposed revised diagram are derived from the application of the proposed new criteria in subparagraphs 313.411 and 313.511 to the "Existing Commercial Activity Areas: 1977" map prepared by the Municipal Planning Office. All areas on the map classified as "sub-city serving commercial areas" and "city-wide serving commercial areas" and not previously mapped on the diagram are added as "chancery facilities" areas on the proposed revised diagram. All areas on the map classified as "commercial core" and not previously mapped on the diagram as "chancery facilities and international agencies" areas are added to that category on the proposed revised diagram. These classifications are described in detail in a document dated March 20, 1978 prepared by MPO and entitled "Explanatory Text with Map, Existing Commercial Activity Areas, District of Columbia". The high density residential areas deleted from the proposed revised diagram are (1) the 16th Street, N.W., corridor between Columbia and Spring Roads, (2) the Logan Circle area, (3) the South Capitol Street corridor between M and P Streets, (4) an area south of the George Washington University campus and north of E Street, N.W., between 19th and 25th Streets, and (5) an area at the intersection of Maryland Avenue and Bladensburg Road, N.E.

The sixth amendment would make clear that international agencies are to be permitted as a matter-of-right in areas which meet the criteria of paragraph 313.51 and are mapped on the diagram.

The seventh amendment would add a criterion to subparagraph 313.511 to permit international agencies in existing commercial areas in which office uses are the principal component. As indicated above, areas on the "Existing Commercial Activity Areas: 1977" map prepared by MPO classified as "commercial core" and not previously mapped on the diagram as "chancery facilities and international agencies" areas are added to that category on the proposed revised diagram.

The eighth amendment is technical and would eliminate an inconsistency between the definitions of "chancery" and "chancery annex" and the text of paragraph 313.61.

The ninth amendment would substitute the proposed revised diagram for the diagram adopted by the Commission on October 6, 1977.

BACKGROUND ON CHANCERIES

(from NCPC Foreign Missions planning report)

1976 5 M sq. ft. of office space was occupied by foreign missions or international agencies in the National Capital Region

14% (300,000 sq. ft) of chancery space was leased.

1.8 million sq. ft. of chancery space was owned.

LOCATIONS OF CHANCERY LEASED SPACE:

1. Watergate Office Bldg. - 9 leases
2. Van Ness Office Bldg. - 8 leases
3. Downtown - south of P St; west of 15th St. - 14 leases

FOREIGN MISSION DESIRE FOR LOCATIONS:

1. owned rather than leased space
2. leasing is a temporary arrangement until they can buy
3. leases are short-term (5 yrs. or less)
4. security, national identity, and prestige are important
5. want proximity to State Dept; Pentagon, White House; Treasury; World Bank; IMF.

Note: Soviets have 13 acres at Mt. Alto site incl. embassy, chancery, staff housing

However, they will not give up many of their present locations and facilities.

OTHER PROPOSED CHANCERY ENCLAVES

at one time proposed for:

1. McLean Gardens (Wisconsin Ave)
2. Dodge Ctr. (Georgetown)
3. West End (bet. Dupont and Washington Circles)

TRENDS IN CHANCERIES

2.3 new missions/yr.

5 acres/yr or 95 additional acres needed by 1995
(81 acres in D.C.) (2 acres/yr in D.C.)
(

Estimated value of foreign missions properties in D.C. (1975): $95.5. M

BACKGROUND ON CHANCERIES

Greatest Growth of Foreign Missions:

1955-65: 36 new missions

Since World War II, 33 new African nations est. diplomatic relations with U.S.

L'ENFANT PLAN:

Originally envisioned emabassies along the Mall.

- downtown
- prestige locations

MASS. AVE HISTORIC DISTRICT

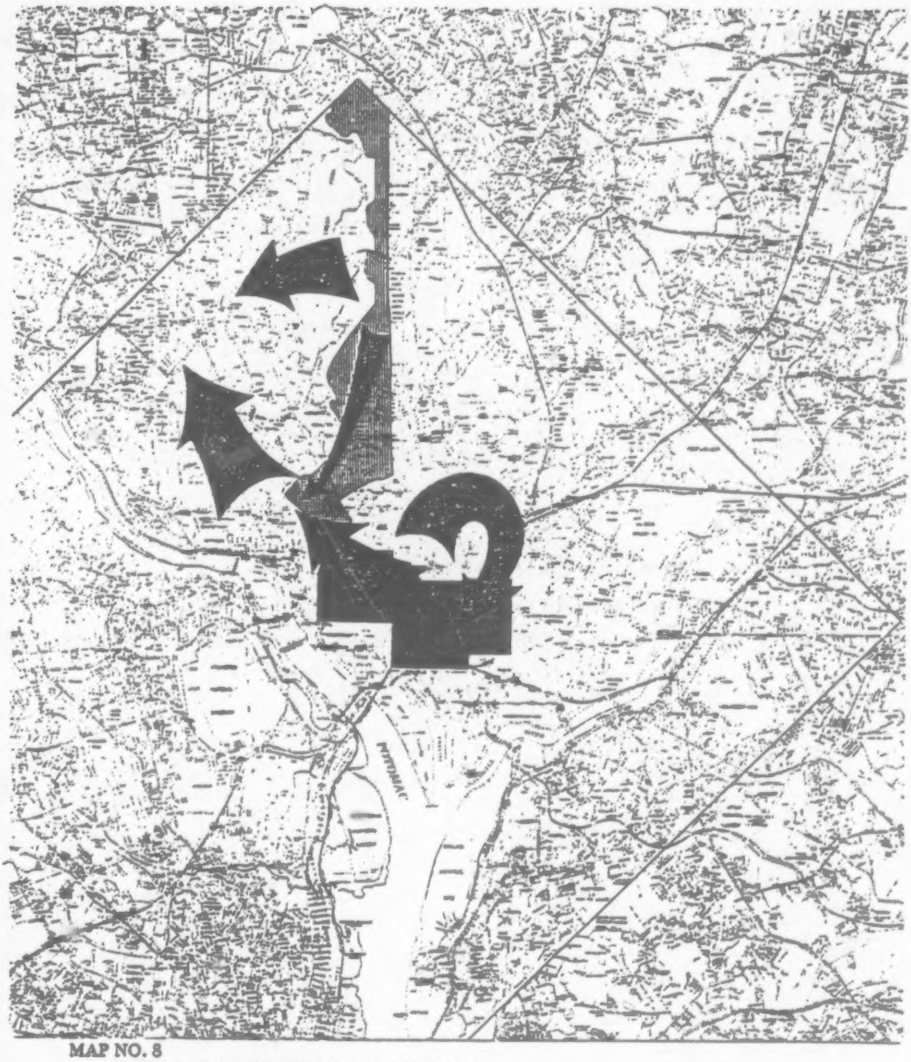
40 foreign missions there

9 in Landmark bldgs

RELOCATION TRENDS OF CHANCERIES

over a 9 yr. period (1966-1975): 80 moves

1973: 9 moves
1974: 13 moves
1975: 7 moves



MAP NO. 8

RELOCATION TRENDS OF CHANCERIES
1965 — 1975

■ Central Employment Area
▲ Kalorama Area
▨ Upper 16th Street
⬅ Relocation Trend

Note: Includes chanceries, combined chancery/embassy, and chancery annexes.

The relocations of chanceries or combined chancery-embassy are shown in Table 12. The Northwest Area evidenced the greatest increase in chancery facilities with 19; 23 moving in and 4 moving out. Again, Upper 16th Street experienced the greatest net loss with 11 chanceries moving out and 2 new chancery annexes opening in the corridor. The Kalorama Area had a net loss of 5 chanceries, with 22 moves out and 17 moves in (See Map 8).

In summary, it appears that the major movement patterns are (1) embassies are moving out of the District, (2) chanceries are concentrating in the Northwest area, and (3) Upper 16th Street is rapidly loosing both chanceries and embassies; about one-half of the facilities existing in 1965 have already moved out.

Table 12. CHANCERY RELOCATIONS TO, FROM, AND WITHIN SELECTED AREAS IN THE NCR, 1965-1975 a/

(Numbers indicate a change in address from the 1966 location to the 1975 location)

FROM TO	Kalorama Area	Central Employment Area	Others Northwest	Upper 16th Street	Outside D.C.	Totals
Kalorama Area	8	4	3	2	0	17
Central Employment Area	1	3	1	0	0	5
Other Northwest	13	2	0	8	0	23
Upper 16th Street	0	0	0	0	0	0
Outside D.C.	0	0	0	1	1	2
Totals	22	9	4	11	1	47

Source: U.S. Department of State. Diplomatic List, U.S. Government Printing Office, Washington, D. C., 1965-1975
Definitions: See Table .

a/ Includes chancery, combined chancery/embassy or annex.

will require the pursuit of either option at a later time. The use of leased space is considered to be an interim solution only. Establishing identity in a large commercial office building was a problem. Individual facilities were preferred.

Syria - Syria always considered its Watergate accommodations to be temporary. According to their Information Officer, the Syrian chancery will relocate to new quarters in July 1976. Their building at 23rd Street and Wyoming Avenue, N.W., in the Kalorama Area is currently being remodeled and modernized.

Mauritius - Mauritius had no immediate plans to relocate from Watergate. The First Secretary of the Mauritian Chancery stated that local zoning regulations limited the location options available to his country.

Recent Interviews with International Agencies

Personal interviews were conducted with World Bank representatives on January 27 and February 11, 1976; two subsequent meetings were held with World Bank Officials on March 18 and 30, 1976, to discuss the Agency's existing and anticipated office space requirements.[1]

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[1] Principal World Bank representatives were Mr. J. E. Twining, Jr., Administrative Services Department; Mr. D.A. De Silva, Deputy Director, Administrative Services Department; and Mr. John R. Crowley, Head of Official Services. Mr. Hal F. Reynolds, Alternate Executive Director of the U.S. to the World Bank was interviewed separately on February 11, 1976.

Sweden - The Swedes indicated that consolidation of their scattered offices was primarily the reason for relocating the chancery from the Embassy Row area. The move to Watergate was considered to be temporary, but accommodations have proven to be convenient. A downtown location for the chancery was selected in large measure to assure convenient access to the State Department, the Pentagon, International Agencies, airports and hotels. A major function of the chancery is to assist Swedish visitors to Washington, particularly businessmen, who generally prefer a central downtown location for convenience while they are here. The Watergate location also permits Swedish diplomatic personnel to use nearby rental housing. Security for the personnel was a consideration in selecting Watergate. Occupancy of the entire twelfth floor aids in the maintenance of adequate diplomatic security. The need for individual identity in a large complex did not seem to be a problem.

They perfer to separate the chancery from the embassy facility. The embass remains at 3900 Nebraska Avenue and is owned by Sweden.

Swaziland - Swaziland established its chancery in leased office space on Foxhall Road, N.W., in 1968. The chancery subsequently was relocated to the Van Ness office building to accommodate the acquisition of an Ambassadorial residence nearby. Cost considerations prompted the selection of leased space for chancery use in both instances. Ownership is preferred. Swaziland is a small developing country in southern Africa. The Swaziland Ambassador considers Embassy Row a prime location for a chancery or in the International Center at Van Ness Street, N.W. However, financial constraints

To identify the locational factors most important to Foreign Missions and International Agencies, information was obtained by questionnaire in the 1973 NCPC survey, recent interviews by staff and by Robert R. Nathan Associates in the preparation of reports for the Commission.

Locations for Foreign Missions

Foreign Missions are located in Washington because it is the capital of the United States. Since the basic function of the diplomatic mission is the representation of its national interest before the U.S. Government, linkages to Federal agencies dealing in international activities is fundamental. Proximity to the State Department, A.I.D., and the White House are most important for convenience and easy access. Travel to perform mission functions to and from Federal agencies is normally by auto or taxi. A 20 to 30 minute travel time is currently considered reasonable.

Major Pierre L'Enfant in his plan for the new capital specified that Foreign Missions, or "embassies," were to be located along the Mall, which was to be the Grand Avenue of the city. It is significant that the embassies of foreign nations were to be accorded such physical prominence in the original design of the Nation's Capital. Although, this part of the L'Enfant Plan was never implemented, prominence and and prestigious locations pertaining to Foreign Missions and International Agencies remain important considerations to foreign representatives.

The World Bank prefers to own rather than lease space since ownership of facilities provides greater operational control of its employees. However, the unavailability of suitable land in the immediate area has prevented additional office building construction by the international body. The Bank considered the acquisition of an office building north of Pennsylvania Avenue, N.W., but decided that additional office facilities should be located in close proximity to its headquarters.

In order to consolidate World Bank employees presently in leased space and to accommodate anticipated employment increases through 1980, 400,000 square feet of office space will be required.

The Bank presently is negotiating with George Washington University for long-term leasing of a large office building the university would construct on campus property nearby.

According to World Bank officials, the Agency's space needs after 1980 may have to be met through decentralization of operations to regional offices, strategically located among other Western nations.

FACTORS FOR FUTURE LOCATIONS

Location factors have played a major role in influencing the pattern of development of the Foreign Missions and International Agencies in Washington and will continue to do so in the future. Locational factors include, functional linkages with other agencies for efficient performance of operations, preferences and amenities, security and costs.

It is the expressed preference of the State Department that Foreign Missions locate within the District of Columbia. According to general international law and practice, all foreign chanceries must be established within the Nation's Capital.

SUMMARY OF LOCATIONAL FACTORS FOR FOREIGN MISSIONS

- o Location of chanceries within the District in accordance with general international law and practice.
- o Functional linkages with State Department, other Federal agencies, and other Missions.
- o Preferences for locations close to existing and established Missions in northwest area of the city.
- o Prominent and prestigious sites and buildings and individual identity.
- o Environmental amenities and neighborhood security.
- o Parking availability.

Locations for International Agencies

The major International Agencies are located in the downtown areas west of the White House. Proximity to the State Department, the Treasury Department, and other international activities were key factors in the original choice of location and still apply today. The major International Agencies have not relocated from their original sites but have expanded in the same area.

In the 1800's Lafayette Square across from the White House was the location of Foreign Missions and as development spread they began extending up Connecticut Avenue and 16th Street, N.W. Around the turn of the century, Massachusetts Avenue became a prominent location for Foreign Missions establishing "Embassy Row" as the prestigious location in the city.

The State Department in its earliest years was located in various structures near the White House. Around 1900, the State Department jointly occupied the Old Executive Office Building, with the War Department west of the White House. In 1943, it moved to its present location at 23rd and C Streets, N.W. The availability of large, prestigious buildings close to the State Department promoted the northwestern area of the city as the area selected by Foreign Missions for locations. It continues to be the preferred location today.

In the survey conducted by NCPC in 1973, the majority of the respondents indicated a preference for the Massachusetts Avenue - Kalorama Area and a general satisfaction with their present location in that area. Several indicated a desire to expand in the area, either through additions to existing buildings or acquisition of adjoining property. Site location factors indicated as most important by the respondents were: (1) easy access to the State Department, Treasury Department, World Bank, and other Federal agencies; (2) environmental amenities; (3) security in the neighborhood, (4) parking.

Saudi Arabia - Officials of the Saudi Arabian Embassy are negotiating to purchase the national headquarters of the American Pharmaceutical Association at 23rd Street and Constitution Avenue. An embassy spokesman said that the Ambassador had been seeking a "more modern chancery with additional parking space" and thinks this location "is an ideal place". However, many issues have been raised by both parties as well as government officials which may tend to delay consummation of the sale.

Bulgaria - The Bulgarian Embassy has confirmed its interest in purchasing the historic Rosedale Estate which is located on a seven-acre tract that is bounded by Newark, Porter, 35th and 36th Streets, N.W. The Washington Cathedral Foundation, owner of the property, is faced with mounting deficits and is disposing of the estate. However, community sentiment seems to be surfacing against any new use that denies area residents of daily access to the grounds for recreational use.

Soviet Union - The U.S.S.R. Embassy has planned to move to the Federally-owned 13-acre Mt. Alto site at Calvert and Wisconsin Avenues, N.W., under a long-term lease arrangement. The plans call for the consolidation of chancery, embassy, and staff housing on the site, however, many of the facilities currently owned by the U.S.S.R. will be retained. The relocation is dependent upon similar arrangements in Moscow for the United States Embassy complex there.

Table 17. UNDEVELOPED SITES IN ZONING DISTRICTS IN NORTHWEST SECTION OF THE DISTRICT OF COLUMBIA WHICH PERMIT CHANCERY USES [a]

General Location	Vicinity	Zoning	Acres
Van Ness Center	Connecticut and Van Ness Streets	C3A	0.75
West End	23rd and M Streets, N.W.	CR,C2B	1.50
Dupont Circle	Between Dupont and Scott Circles	SP,R5D	0.50
			2.75

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[a] Some of the Zoning Districts listed (SP and R5D) require BZA approval for chancery uses.

Recent Purchases or Negotiations by Foreign Missions

French Embassy - In 1973, the French Embassy purchased 8 acres of the Archbold Estate at 40th and Reservoir Road, N.W. The purchase would permit the French to concentrate at one location all of their widely scattered office operations. The embassy would remain at its present location.

Although the proposed chancery site is presently zoned for low density residential use, the French have assured the Estate owner that they have made every effort to minimize all adverse impacts stemming from new office activities in a residential neighborhood. The Chancery Act of 1964, however, prohibits new office activities from locating in residentially zoned neighborhoods including R-1-A through R-5-B. A zoning change must be obtained prior to development for chancery use.

Government of the District of Columbia
ZONING COMMISSION

Zoning Commission Cases No. 77-45 and 77-46

STATEMENT OF REASONS

September 14, 1978

At the request of the National Capital Planning Commission (NCPC) the District of Columbia Zoning Commission adopted Article 46, a new text in the Zoning Regulations of the District of Columbia, to provide for the location of embassies, chanceries and international agencies, Case No. 77-45. In that case, the Zoning Commission established a new Mixed Use Diplomatic (D) District to be mapped in combination with other Districts and provided that chanceries could be located in the D District after a careful review by the Board of Zoning Adjustment to assure compatibility with affected neighborhoods. The same review was also provided for certain other Districts where chanceries are permitted to avoid adverse impacts on neighborhoods.

In Companion Case No. 77-46, the Mixed Use Diplomatic (D) Districts were mapped at suitable locations in combination with other existing Districts.

In developing the Mixed Use Diplomatic (D) District and the map, the Zoning Commission considered the criteria of the Comprehensiye Plan Element for Foreign Missions and International Agencies adopted by the NCPC, including the map diagram annexed to the element.

The actions were taken following extensive public hearings at which testimony was heard from the NCPC, the Department of State, representatives of foreign governments, community groups, residents, property owners, a number of Advisory Neighborhood Commissions where chanceries are located or may be located in the future, members of the Council of the District of Columbia and the Municipal Planning Office. The hearings developed wide-spread public interest and debate. The Regulations and Maps that were developed respond to the issues that emerged from those hearings and represent a balance among the need of the international community for suitable locations for the transaction of business in the Nation's Capital and the interest of the residential community to avoid undue intrusions into residential neighborhoods. Central to this accommodation is the review process established for areas where such accommodation may be required.

This review, in effect, establishes a qualified matter-of-right chancery use in the Mixed Use Diplomatic (D) Districts where the review is required. This review is based on the

Board of Zoning Adjustment review for compatibility prescribed by the Chancery Act of 1964. It would be administered by the Board of Zoning Adjustment in the same manner as with those reviews that have been taking place to meet Chancery Act requirements.

Summary of Provisions

In summary, the Zoning Commission recognizes that the relationship of chanceries to residential and other neighborhood uses is a sensitive one, but one which can be harmonious under reasonable regulatory controls. On that basis, special review procedures were established in the D, R-5-C, R-5-D, **and SP Districts.** The standards and procedures of this review are designed to: supply adequate parking, preserve historic structures and districts, establish that the scale of development is consistent with surrounding development, ensure compatibility with other neighborhood development and protect nearby residential uses. The Mixed Use Diplomatic (D) District mapping has been established within a firm regulatory structure in order to give appropriate protection to areas which may include existing residential uses located adjacent to or in the vicinity of "Embassy Row" areas.

The regulatory procedures require that new chanceries and additions to existing chanceries within such areas be subject to a Board of Zoning Adjustment hearing to ensure that any chancery development meets the prescribed standards. The Board of Zoning Adjustment may impose reasonable conditions to mitigate adverse impacts identified in the review process to ensure compatibility with other development in the neighborhood.

The planning and zoning process initiated by the NCPC, participated in by citizens and concerned federal and local agencies, and continued before this Commission has evolved into a zoning policy for the future location of chanceries and international agencies in the District of Columbia, summarized as follows:

1) Chanceries and international agencies can locate in most high density commercial and certain existing mixed use areas without having an adverse impact on either the commercial area or other surrounding areas. No special review procedures are provided in these Districts.

2) Certain high density residential areas, generally located along the major thoroughfares and in close proximity to major commercial and employment areas and traditionally characterized by diplomatic uses are appropriate locations for chancery development in keeping with the Act of 1964, provided there is a review of each proposed development and it is found that the scale and other characteristics

of development are in keeping with other buildings and uses in the area and that special consideration is given to the protection of nearby residential uses.

3) In certain mixed use Districts such as SP which contain substantial residential developments, a review of the specific diplomatic development proposal is needed to ensure compatibility of scale and other characteristics with other buildings and uses and to give special consideration to the protection of nearby residential uses.

4) In medium density commercial areas, which are usually in close proximity to residential areas, a review is needed to ensure that the proposed diplomatic development is in scale with and compatible with the character and function of the commercial area and to provide special restrictions if needed for the protection of nearby residential uses.

5) Diplomatic facilities are not appropriate in the C-1 neighborhood commercial areas which are usually limited in size and are intended to provide limited retail and service facilities for the immediate neighborhood. The Zoning Commission determined that such limited areas are not suitable for the type of office involved in chancery use, and which does not offer a neighborhood service.

6) With the exception of embassies which are the residences of the chiefs of missions, diplomatic development is not appropriate in areas that are exclusively devoted to low and medium density residential uses. Embassies are appropriate, the Zoning Commission found, in areas where residential uses are permitted.

7) Because of a number of circumstances, certain areas of the District which are zoned for low or medium density residential development have been enhanced by a substantial degree of diplomatic or institutional development which has historically marked and presently marks the character of those areas. "Embassy Row" stamps Massachusetts Avenue, N. W., from Dupont Circle to Observatory Circle and 16th Street, N. W., north to Park Road. Massachusetts Avenue and 16th Street are major roadways, characterized by their signally attractive settings. The two roadways are substantially lined by trees and attractive, small-scale buildings. The absence of commercial uses such as shops, with their accompanying signs, glass fronts, and displays of merchandise, graces both corridors. Both corridors provide embassies and chanceries with ready access to the

governmental offices and other entities with which they interact.

The Zoning Commission has concluded that it is reasonable to provide for chancery location in and near these corridors. The characterization of a chancery as the business office of a foreign government does not precisely reflect a chancery's character or its impact on other uses. Chanceries are in their character and operation comparable to the types of professional and institutional uses which are now permitted, along with residential uses, in the mixed-use SP zone. They do not require the type of signs, glass fronts, or displays which characterize commercial activities which need to attract customers. The creation and mapping of a Mixed Use Diplomatic (D) District will provide for chancery location in attractive surroundings. The provision therefore is appropriate to the District's role as host city for foreign governments. It would be inappropriate to restrict chancery location only to the commercial Districts. The various uses which are permitted in the commercial Districts, although compatible with chanceries, have qualities of character and operation which distinguish them from chanceries.

In establishing a Mixed Use Diplomatic (D) District, the Zoning Commission notes that it is recognizing the same type of factors which underlied the creation of the SP zone in 1958. The "Lewis Report", which preceded the 1958 rezoning, set forth:

> "Certain areas of the city defy classification as either residential or commercial, since in such areas residential, commercial, and semi-commercial uses exist side by side. The reason for this incongruous but occasionally stable pattern is found not in the nature of the existing land use, but in intangible historical and psychological factors. The SP-1 District is designed to preserve such areas essentially as they are." Lewis, "A New Zoning Plan for the District of Columbia," 101, 1956.

In sum, the Zoning Commission has concluded, as did the NCPC, that sound planning considerations make it appropriate to create and map a Mixed Use Diplomatic (D) District which will recognize the character of diplomatic uses and that of the areas which will be mapped for such use.

In creating this mixed-use zone, the Zoning Commission has recognized as well the need to ensure that chancery location is subject to controls which will assure that the impact of chancery uses will not adversely affect the residential and other uses permitted in the mixed-use zones.

8) When Chancery development occurs within an historic district special care is given to ensure compatibility with the historic district. Similarly, chanceries may be permitted to occupy historic landmarks to restore, rehabilitate and maintain them as historic structures in keeping with regulations governing such buildings and thereby preserve them.

Policy Statement

Having considered all the facts, interests and views presented to it, and after carefully deliberating upon and balacing them, the Commission, in the fulfillment of its statutory responsibilities, has established Zoning Regulations and a Mixed Use Diplomatic (D) District to govern chancery locations.

In adopting the diplomatic text amendments, this Commission has recognized the need to provide suitable locations for foreign missions within the National Capital. The Commission is also aware of its mandate to balance that need with those of the residents of the District of Columbia.

In developing the text amendments, the Commission has structured a framework that should encourage a degree of diplomatic developments to take place in major commercial and existing mixed use areas and thereby both (1) ensure that chanceries are located in the Mixed-Use Diplomatic (D) District only by those governments which are willing and able to adhere to the strict review criteria for such locations, and (2) provide sufficient potential locations for chanceries to accommodate the varying needs of foreign governments.

The Commission has provided additional procedures within the regulations to ensure that, when diplomatic development does take place within close proximity to residential uses, special care will be given to the protection of residential uses and the character of the neighborhood.

In recognition of past diplomatic trends this Commission has established the Mixed Use Diplomatic (D) District and mapped the (D) District is those areas where substantial past diplomatic and other nonresidential development has taken place or where such future development may take place in harmony with other neighborhood uses. The text and map are designed to work together providing for compatible and controlled infill development which will not adversely impact the quality of residential life in such areas.

As part of its action this Commission has established policies, review procedures and standards to guide future actions of the Board of Zoning Adjustment in regard to diplomatic development and has provided the Board with the regulatory framework to ensure the protection and integrity of the mixed-use neighborhoods.

Department of State Views

At the February 27, 1978 hearing, on the original zoning proposals, the Department of State expressed great concern about the restrictive nature of the regulation which eliminated extensive areas of commercial zoning from consideration as chancery sites. At the June 22, 1978 hearing the Department of State supported the proposal then pending which included the commercial areas, and concluded, "we believe the present MPO proposal has fully and reasonably considered both the urgent and important Federal interest involved, as well as having taken into account the foreign missions and international agencies element adopted by NCPC on October 6, 1977, the existing land use trends in the City, and the impact on residential and nonresidential areas".

General Background

On October 6, 1977 the National Capital Planning Commission (NCPC), pursuant to its statutory function of preparing Federal elements of the Comprehensive Plan for the National Capital, adopted the Foreign Missions and International Agencies Element of the Comprehensive Plan. The NCPC requested by resolution that the Zoning Commission carry out the plan element "through the adoption of appropriate amendments to the Zoning Regulations necessary to make such Zoning Regulations not inconsistent with such element in accordance with Section 2 of the Zoning Act".

The Plan Element provides that an embassy, which is the residence of the chief of a foreign mission, shall be permitted wherever other residences are permitted. The Plan Element also provides that existing chanceries shall be permitted to continue at their present locations. The Element establishes criteria for the location of future chanceries and international agencies. It is accompanied by a "soft edge" map diagram showing those areas of the District of Columbia that met the Plan criteria for the location of both chanceries and international agencies.

The criteria of the Plan Element for chanceries are as follows:

> "To meet the objectives, new, expanded, or relocated Chancery Annexes, and Combined Chancery/Embassies shall be permitted to locate only in areas:
>
> - (1) designated on the "General Land Use Objectives: 1970/1985" diagram for (a) predominantly office use, except areas under the jurisdiction of the Architect of the Capitol, (b) mixed uses, including commercial, office and institutional, or (c) high density residential use, or (2) along or in close proximity to arterial streets in which existing Chanceries, Chancery Annexes, and Combined Chancery/Embassies are concentrated;
> - Served by public transit (metrobus and/or Metrorail) to reduce parking requirements;
> - Where adequate public facilities, utilities and services, including streets, street lighting, water, sewer, electricity, telephone, and refuse collection, are available or can be provided; and

- o Capable of being adequately protected by the Executive Protective Service".

The criteria of the Plan for International Agencies are as follows:

"New, expanded, or relocated facilities for International Agencies shall be permitted to locate only in areas:

- o Designated on the "General Land Use Objectives: 1970/1985" diagram for (1) predominantly office use, except areas under the jurisdiction of the Architect of the Capitol, or (2) mixed uses, including office, commercial, institutional and high density residential.
- o Served by public transit (Metrobus and/or Metrorail) to reduce parking requirements; and
- o Where adequate public facilities, utilities and services, including streets, street lighting, water, sewer, electricity, telephone, and refuse collection, are available or can be provided".

Legislative Background

The Self-Government and Governmental Reorganization Act (PL 93-108) modified both the Act relating to the National Capital Park and Planning Commission (PL 68-202, June 6, 1924, as amended) and the Zoning Acts(PL 66-153, March 1, 1920, as amended; PL 75-684, June 20, 1938, as amended) to provide for a relationship between planning and zoning under self-government.

In Section 492 of that Act, which is part of the Home Rule Charter for the District of Columbia, the Act provided that:

> "The Zoning Commission shall exercise all the power and perform all the duties with respect to zoning in the District as provided by law".

That Section also stated that:

> "Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the National Capital".

The same Section also provided that proposed actions of the District of Columbia Zoning Commission are to be submitted to the National Capital Planning Commission for its review and comment.

Section 203 of the same Act designates the Mayor as the "Central Planning Agency for the District Government" and establishes the National Capital Planning Commission as the "Central Federal Planning Agency". (The Mayor has delegated his function to the D. C. Municipal Planning Office).

The Act further provides that the Mayor's planning responsibility shall not extend to Federal or international projects and developments in the District, as determined by the National Capital Planning Commission (NCPC).

On the basis of the foregoing, it was concluded that planning for the location of international projects and developments in the District including chanceries and international agencies is within the planning jurisdiction of NCPC. On the basis of that authority, NCPC adopted the Foreign Missions and International Agencies Element of the Comprehensive Plan on October 6, 1977. Also relevant is the Chancery Act of 1964 which provides a process for approving the location of chanceries in certain residential areas.

Case History

Once the Foreign Missions and International Agencies Element was adopted by NCPC, the District of Columbia Zoning Commission directed the Municipal Planning Office to prepare proposed regulations and maps to provide for the location of chanceries and international agencies in response to the request of NCPC that they be prepared to carry out the plan element.

Hearings on proposals to establish diplomatic (D)mixed use zones substantially coextensive with the NCPC map diagram began on January 23, 1978. Subsequent public hearings occured on February 27, 1978, June 22, 1978, and June 29, 1978 and extensive testimony was received. The Zoning Commission considered the matter at meetings on March 9, 1978, April 13, 1978, July 13, 1978, and July 24, 1978, and again, after the NCPC review, on September 14, 1978.

On the basis of the record of the hearings, the Zoning Commission directed the Municipal Planning Office to prepare modifications to the proposed regulations and maps to accomplish the following:

1) Ensure that the location, other than in commercial zones, of proposed chanceries adhered strictly to the areas provided for in the Plan Element.

2) Expand the commercial areas where chanceries may locate to provide greater opportunity for chanceries to locate throughout the city.

3) Provide for a strict review of proposals to locate chanceries in certain mixed use areas and in neighborhood commercial locations.

4) Permit international agencies to locate in commercial areas other than neighborhood commercial areas and in certain mixed use areas.

The Zoning Commission recognizes that its action would provide for chancery and international agency use in commercial zones outside areas which are portrayed for such use on the "soft edge" map which is part of the NCPC Plan Element. The Zoning Commission has so provided, because it concluded that chancery and international agency uses are fully compatible with all of the commercial zones, except the C-1 Neighborhood Shopping Zone. The commercial uses permitted in such zones are, conversely, compatible with chancery and international use. There is nothing before the Zoning Commission which provides a rational basis for excluding such diplomatic uses from these zones. Such exclusion would be unduly restrictive of the choices available to foreign governments and international agencies. A particular government or agency may for a number of reasons prefer to locate outside the areas shown on the NCPC Map. Accordingly, the Zoning Commission determined to submit such proposed action to the NCPC for its review and comment. The Zoning Commission took this procedural course for several reasons:

1) The Self-Government Act should not be read to preclude effective local decision-making by the Zoning Commission.

2) Just as the adoption of the NCPC Plan Element required the Zoning Commission to re-evaluate reasons for and purposes of the Zoning Regulations, so is it also to be expected that this Commission may at times propose action which may require the NCPC, during its review to re-evaluate a Plan Elemeny it has adopted.

3) The ultimate administrative evaluation of any question of inconsistency with a plan element adopted by the NCPC can only occur after NCPC review and in light of the NCPC's comments.

Action of the Zoning Commission

The Zoning Commission decided to provide a Mixed Use Diplomatic (D) District to be mapped in conjunction with the existing District at certain locations within the NCPC diagram. Chanceries could locate in these Districts subject to height and bulk restrictions of the existing District and subject also to review by the Board of Zoning Adjustment for compatibility with the neighborhood. The Mixed Use Diplomatic (D) District mapping in conjunction with the provision of other Districts where chanceries may locate puts into effect essential features of the NCPC plan element.

The Board of Zoning Adjustment review of proposed chancery locations was extended to cover the R-5-C, R-5-D, and SP Districts. Location of chanceries in the R-5-C and R-5-D Districts is mandated by the Chancery Act which also requires such review. Portions of these Districts lie within the NCPC map diagram, but other such Districts are located outside the NCPC mapped areas. Board of Zoning Adjustment review for the D Districts was also provided for the other Districts where a review process was deemed desirable. In all those Districts, chanceries are to be allowed subject to these conditions to ensure compatibility:

- The architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood.
- The height of the building does not exceed the maximum permitted in the applicable single or combined District in which it is located.

- The percent of lot occupancy does not exceed the maximum permitted in the applicable single or combined District in which it is located.
- The percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable single or combined District in which it is located.
- The maximum FAR does not exceed the FAR prescribed for the applicable single District or the combined Districts in which it is located or an FAR of 1.5, whichever is greater.
- Except for Chanceries located in an R-5-C or an R-5-D District, off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use.
- In an R-5-C District, off-street parking spaces will be provided at a ratio of not less than one such space for each twelve hundred (1,200) square feet of gross floor area devoted to Chancery uses as provided in the Chancery Act of 1964.

- In an R-5-D District off-street parking spaces will be provided at a ratio of not less than one such space for each one thousand eight hundred (1,800) square feet of gross floor area devoted to Chancery use as provided in the Chancery Act of 1964.
- The use will not create dangerous or other objectionable traffic conditions.
- The Board of Zoning Adjustment (BZA) shall refer the application and site plan to the District of Columbia Municipal Planning Office (MPO) for coordination, review and report, said report to include any recommendations with respect to the application and site plan of other District departments and agencies including the Departments of Transportation, Environmental Services, and Housing and Community Development. Comment also shall be requested of the U. S. Department of State, the National Capital Planning Commission, and in areas of its jurisdiction of the U. S. Commission of Fine Arts. It should be pointed out that if a proposed chancery site is deemed inappropriate by one or more of the commenting agencies the BZA would be so informed. Accordingly, the BZA would have power to modify or reject the

proposal. Similarly, Federal agencies support of such a proposal would weigh in its favor.

- When the chancery is to be located in a designated historic district of historic landmark, the application shall be referred to the Historic Preservation Officer of the District of Columbia for a report on the impact of the proposed chancery on said district or landmark. To facilitate this review the applicant shall, at the request of the Historic Preservation Officer, submit exterior elevations of all buildings and structures showing any proposed extension, alterations or additions. When mutually agreed, the Board of Zoning Adjustment shall have authority to arrange concurrent hearings with the Historic Preservation Officer.
- The Board of Zoning Adjustment may require such special treatment and impose such reasonable conditions as it shall deem necessary to mitigate any adverse impacts identified during the review process in order to assure compatibility with the present and proposed development of the neighborhood. Such conditions may include but are not limited to the location of structures and facilities, off-street parking spaces, loading berths, curb cuts, and re-

quirements for screening, noise control and the protection of historic districts and historic landmarks.

The review process is adapted from the provisions of the Chancery Act calling for a compatibility review for chanceries located in medium-high and high density residential areas. The review also effectuates a provision of the NCPC plan element directing that "special care" be given to the protection of residential areas in locating chanceries. The review, in effect, allows chanceries to locate in review Districts on a controlled matter-of-right basis. As far as possible, consistent with the Chancery Act, a uniform review process is provided for all Districts that are subject to review.

By contrast, in the W, CR, C-2-B, C-3, C-4, and C-5 Districts chanceries and international agencies may locate as an unqualified matter-of-right (without a Board of Zoning Adjustment review). In so providing, the Zoning Commission has determined that no review is required in these essentially non-residential Districts.

International agencies may locate in the SP Districts only with the Board of Zoning Adjustment review for compatibility. International agencies were encouraged to locate in centrally located high density office areas.

As pointed out, the location of chanceries in R-5-C and R-5-D areas is in accordance with the Chancery Act of 1964 which states:

> "After the date of enactment of this subsection a foreigh government shall be permitted to construct, alter, repair, convert, or occupy a building for use as a chancery within any district or zone restricted in accordance with this Act to use for medium-high density apartments or high density apartments if the Board of Zoning Adjustment shall determine after a public hearing that the proposed use and the building in which the use is to be conducted are compatible with the present and proposed development of the neighborhood. In determining compatibility the Board of Zoning Adjustment must find that --
>
> 1) in districts or zones restricted in accordance with this Act to use for medium-high density apartments, that off-street parking spaces will be provided at a ratio of not less than one such space for each twelve hundred square feet of gross floor area; and
>
> 2) in districts or zones restricted in accordance with this Act to use for high density apartments,

that off-street parking spaces will be proviced at a ratio of not less than one such space for each one thousand eight hundred square feet of gross floor area; and

3) the height of the building does not exceed the maximum permitted in the district or zone in which it is located; and

4) the architectural design and the arrangement of all structures and off-street parking spaces are in keeping with the character of the neighborhood".

Chanceries have been permitted in commercial areas as a matter-of-right and in SP areas with a BZA review process. The new regulations strengthen the review process for SP areas.

The Commission is familiar with the past problems caused by chanceries as well as the shortcomings of the Zoning Regulations of the past in dealing with diplomatic development issues. Following the 1958 revision of the Zoning Regulations, the Board of Zoning Adjustment dealt with chanceries in residential Districts as special exceptions but without the benefit of a guiding plan element or an adequate policy statement or guidelines established by the Zoning Commission. Congress passed the 1964 Chancery Act which greatly limited the possibilities for establishing new chanceries in low and medium density residential areas. Subsequently, a number of chanceries have been established employing a change to medium-high density zoning in conjunction with a planned unit development (PUD). While this latter procedure provided an opportunity for an indepth site plan review to assure compatibility with surrounding development, it has resulted in the removal of a number of large tracts of land from the tax roles. These chancery PUD approvals were based on the reviews by the Zoning Commission and the Board of Zoning Adjustment on a case-by-case basis. That relatively cumbersome process will no longer be required for chancery applications, except for two pending cases which may go forward to final action. There is also one pending PUD for an international agency which also may be processed under a PUD.

The Commission is cognizant of this city's role as the national capital, the need to accommodate foreign missions, the need for a policy framework for the location of such missions and the desirability of providing locational guidance to foreign representatives seeking sites for their missions. We are equally aware that this is the home of about 700,000 people and our responsibility as set forth in the Zoning Act, Section 5-414 of the D. C. Code as follows:

> "Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein".

The record shows that chanceries and international agencies have in the past located in commercial areas, have been compatible with the other office and commercial uses in such areas and have not at such locations created any unusual problems for the surrounding community. On the other hand, when chanceries locate in predominantly residential areas, they may cause problems unless special care is given to protecting the residential uses. The NCPC plan element provides that such "Special Care" be provided. As pointed out, the review by the Board of Zoning Adjustment is designed to assure such "Special Care".

The Commission also observes that one matter of concern, namely the compliance by diplomatic representatives with parking, traffic safety and other related regulations and laws of the District of Columbia is being addressed by the Congress in pending legislation. It is to be hoped that the pending legislation is adopted.* Control of the traffic and parking inpacts of chanceries and international agencies is more rationally addressed by direct controls focusing on the specific problems, rather than by using zoning as the only control. The zoning regulations include controls which will be substantially more effective if combined with other, effective regulations.

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* Congressional action was completed on September 18, 1978 and was sent to the President.

Mapping of Mixed Use Diplomatic (D) Districts

The Mixed Use Diplomatic (D) Districts have been mapped in accordance with the NCPC criteria and soft edge map diagram and in keeping with the concept of maintaining as suitable locations for chanceries the city's two traditional "Embassy Row" areas along portions of Sixteenth Street, N. W., and its immediate adjacent vicinity, and along portions of Massachusetts Avenue, N. W. and its vicinity.

Some of the (D) District areas were mapped along side of existing R-5-C District areas where chanceries are permitted in accordance with the Chancery Act of 1964 and the zoning text. Location is also based upon the presence in or near the affected areas of existing chanceries, embassies, and other institutional and commercial uses which demonstrate an existing mixed-use character of the mapped area.

A Square by square analysis covering the mapped Mixed Use Diplomatic (D) Districts follow:*

Square 2568 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/R-5-B fronts on Belmont Street and Crescent Place. It is developed predominantly with foundation and educational uses and contains vacant properties. Traffic in this square is oriented toward 16th Street.

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*In cases where a square is covered by more than one District, that fact is noted. References to the NCPC map diagram noted below are to the D District segments.

The remainder of the square is zoned R-5-C, fronts on 16th Street and is vacant.

Square 2571 -- Within the NCPC map diagram for chanceries.

The smallest portion of the square is zoned D/R-5-B and fronts on Crescent Place. It is developed with apartments and semi-detached residential uses oriented toward the institutional uses across Crescent Place (Square 2568). Traffic from this part of the square is oriented toward 16th Street.

Part of the square is zoned R-5-C, fronts on 16th Street and includes commercial, chancery and apartment uses.

Part of the square is zoned C-M-2, fronts on Kalorama Road and is developed predominantly with row houses and apartments and includes government storage uses.

Square 2575 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on Mozart Place. It is developed with apartments, vacant property and the rear of an inactive embassy which fronts on 16th Street.

The remainder of the square is zoned R-5-C, fronts on 16th Street and is developed predominantly with embassy, chancery and international agency uses.

Square 2578 -- Within the NCPC map diagram for chanceries.

The small part of the square zoned D/R-5-B fronts on Mozart Place and Fuller Street. It is largely vacant and includes a chancery which has its frontage on 16th Street.

The remainder of the square is zoned R-5-C and fronts on 16th Street and Columbia Road. It is developed primarily with chancery and institutional uses.

Square 2662 -- Within the NCPC map diagram for chanceries.

The small part of the square zoned D/R-5-B fronts on 15th Street. It is equally divided with chancery and office uses and with apartment and row house uses. It is oriented toward Meridian Hill (Malcolm X) Park on 16th Street.

The part of the square which fronts on Chapin and Clifton Streets is zoned R-5-B and is developed predominantly with apartments and includes vacant properties.

The remainder of the square fronts on 14th Street, is zoned C-2-B, is developed with neighborhood commercial uses and includes vacant properties.

Square 2663 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on 15th Street. It is developed equally with apartments and chancery uses oriented toward Meridian Hill (Malcolm X) Park and 16th Street.

Part of the square is zoned R-5-B, fronts on University Place and is developed predominantly with apartments and row houses.

Square 2666 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on 15th Street. It is developed with apartments and row houses. This part of the square faces an R-5-C area across 15th Street which is developed predominantly with chancery and institutional uses.

The remainder of the square fronts on University Place, is zoned R-5-B and is developed with houses and includes vacant properties.

Square 2667 -- Within the NCPC map diagram for chanceries.

Part of the square zoned D/R-5-B fronts on 15th Street. It is developed with apartments. This part of the square faces an R-5-C area across 15th Street which is developed predominantly with chancery and institutional uses.

Part of the square fronts on Fairmont and Girard Streets, is zoned R-5-B, is developed with apartments and includes vacant properties.

The remainder of the square fronts on 14th Street, is zoned C-2-B, is developed with apartments and commercial uses and includes vacant properties.

Square 2669 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on 15th Street. It is developed with apartments and row houses. This part of the square faces an area across 15th Street which is developed predominantly with embassy, chancery and institutional uses.

Part of the square fronts on Harvard Street and Columbia Road. It is zoned R-5-B and is developed with apartments, row houses and semi-detached houses.

The remainder of the square fronts on 14th Street, is zoned C-2-A and C-2-B and is developed with apartments.

Square 2577 within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on 15th Street. It is developed with row houses. This part of the square is oriented toward the squares due north and south which are developed predominantly with diplomatic and institutional uses.

Part of the square fronts on 16th Street, is zoned R-5-C and includes apartments and row houses.

Square 2672 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on 15th Street and Irving Street. It is developed with apartments, semi-detached and detached houses, institutional uses and has vacant properties. This part of the square faces institutional and apartment uses across 15th and Irving Streets near their juncture with 16th Street.

Part of the square fronts on Columbia Road, is zoned R-5-B and is developed with apartments.

The remainder of the square fronts on Columbia Road, 14th Street and Irving Street. It is zoned C-3-A and is developed predominantly with apartments, commercial and public uses and includes vacant properties.

Square 2673 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on Irving Street and Hiatt Place. It is developed with recreation and educational institutional uses.

The remainder of the square fronts on 16th Street, is zoned R-5-C and is developed with recreation and educational institution uses.

Square 2675 -- Within the NCPC map diagram for chanceries.

The square is zoned D/R-5-B, fronts on 16th Street, Pine Street, Park Road, and Hiatt Place. It is developed predominantly with recreation and institutional uses and includes apartments and row houses.

Square W 2675 -- Within the NCPC map diagram for chanceries.

The square is zoned D/R-5-B, surrounded by 16th Street, Park Road and Pine Street and is developed as a park.

Square 1939 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-B fronts on Massachusetts Avenue. It is developed predominantly with chancery, embassy and institutional uses.

The remainder of the square fronts on Fulton, 34th and 35th Streets, is zoned R-1-A and is developed with single family residences.

Square 2122 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-A fronts on Massachusetts Avenue, 34th Street and Fulton Street. It is developed about equally with embassy and residential uses.

The remainder of the square at the corner of Fulton and 34th Streets is zoned R-1-A and developed with single family residences.

Square 2145 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-A fronts on Massachusetts Avenue. It is developed predominantly with chancery and embassy uses.

The remainder of the square fronts on 30th Street, is zoned R-1-A and is developed with single family residences.

Square 1298 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-A fronts on Massachusetts Avenue. It is developed equally with embassy and single family residential uses.

The remainder of the square fronts on 30th Street, Benton Place and Rock Creek Drive, is zoned R-1-A and is developed with single family residences.

Square 2147 -- Within the NCPC map diagram for chanceries.

Most of the square zoned D/R-5-A fronts on Massachusetts Avenue and Observatory Circle. It is developed predominantly with chanceries and embassies. This area is also covered by a Planned Unit Development for chancery and embassy uses.

The remainder of the square zoned D/R-1-A fronts on Whitehaven Street. It is developed predominantly with institutional uses.

Square 2155 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-A fronts on Whitehaven Street and backs onto Dumbarton Oaks and Rock Creek Parks. It is developed with chancery and institutional uses. The end of the square toward Rock Creek Park is vacant.

The remainder of the square fronts on R and 32nd Streets and backs onto the commercial area along Wisconsin Avenue. It is zoned R-1-B and is developed predominantly with park, cemetery and institutional uses.

Square 1299 -- Within the NCPC map diagram for chanceiris.

The part of the square zoned D/R-5-B fronts on Observatory Circle and Dumbarton Oaks Park and backs onto the commercial area on Wisconsin Avenue. It is undevelope

The remainder of the square fronts on Wisconsin Avenue, and is zoned C-2-A, C-1 and R-1-B. It is developed predominantly with commercial uses and includes vacant properties.

Square 2500 -- Within the NCPC map diagram for chanceries.

Most of the square zoned D/R-3 fronts on Massachusetts Avenue. It is about equally developed with embassies and chanceries and includes residential uses.

The remainder of the square fronts on Waterside Drive, is zoned R-3 and is developed predominantly with row houses and has a small amount of chancery use.

Square 2507 -- Within the NCPC map diagram for chanceries.

The square zoned D/R-3 fronts on Massachusetts Avenue. It is developed predominantly with embassy, chancery and institutional uses and includes some row houses.

Square 2511 -- Within the NCPC map diagram for chanceries.

The square zoned D/R-3 is bounded by Massachusetts Avenue, 23rd Street and Q Street. It is developed about equally with embassy and chancery uses and includes some row houses.

Square 2501 -- Within the NCPC map diagram for chanceries.

Square 2501 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-B fronts on Massachusetts Avenue and includes one lot on Belmont Road. It is developed entirely with chancery and institutional uses.

The remainder of the square is zoned R-1-B, fronts on Belmont Road and backs onto Rock Creek Parkway. It is developed with chancery and residential uses.

Square 2505 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-B fronts on Massachusetts Avenue and California Street, together with two lots fronting on Tracy Place at Belmont Road. It is developed with a mixture of embassy, chancery and residential uses.

The remainder of the square zoned R-1-B, fronts on Tracy Place and is developed with single family residences.

Square 2506 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-B fronts on Massachusetts Avenue, California Street and S Street. It is developed predominantly with embassy and chancery uses.

The remainder of the square is zoned R-1-B, fronts on California Street and 24th Street and is developed with single family residences.

Square 2517 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-B fronts on Massachusetts Avenue, S Street and Decatur Place. It is developed predominantly with embassy, chancery and institutional uses and includes single family residences and vacant properties.

The remainder of the square is zoned R-1-B, fronts on S Street, 22nd Street and Decatur Place and is developed predominantly with single family residences.

Square 2516 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-3 fronts on Massachusetts Avenue, Decatur Place and R Street. It is developed almost entirely with embassy and chancery uses.

The remainder of the square is zoned R-3 and fronts on Decatur Place and 22nd Street. It is developed almost entirely with single family residences.

Square 2512 -- Within the NCPC map diagram for chanceries.

The square zoned D/R-3 fronts on Massachusetts Avenue, Sheridan Circle, 22nd Street and R Street. It is developed predominantly with embassy, chancery, office and institutional uses, with some row houses and vacant property.

Square 2513 -- Within the NCPC map diagram for chanceries.

The square zoned D/R-3 fronts on Florida Avenue, R Street and 22nd Street. It is developed predominantly with residential uses and almost equal amounts of embassy, chancery and office uses. Additional embassy and chancery uses face the properties in this square from across each of the surrounding streets.

Square 2514 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-3 fronts on Decatur Place, 22nd Street and R Street. It is developed predominantly with row and semi-detached residential uses and with significant embassy and chancery uses.

The part of the square zoned D/R-5-B fronts on Florida Avenue and Decatur Place. It is developed with apartments.

Square 2515 -- Within the NCPC map diagram for chanceries.

The square zoned D/R-3 fronts on Decatur Place, Florida Avenue, Phelps Place, S Street and 22nd Street. It is developed predominantly with institutional and chancery uses and a small amount of residential use.

Square 2533 -- Within the NCPC map diagram for chanceries.

The square zoned D/R-3 fronts on Florida Avenue, Phelps Place and S Street. It is developed with semi-detached residential uses. The square is surrounded by squares which have significant embassy, chancery, institutional, commercial and apartment uses.

Square 65 -- Within the NCPC map diagram for chanceries.

The square zoned D/R-5-B fronts on Florida Avenue, 21st Street and R Street. It is developed predominantly with apartment and row house uses and includes significant commercial and institutional uses. The surrounding squares contain significant amounts of embassy, chancery, institutional and commercial uses.

Square 66 -- Within the NCPC map diagram for chanceries.

Part of the square zoned D/R-5-B fronts on Florida Avenue, R Street and 21st Street. It is developed about equally with chancery, institutional and commercial uses and with residential uses.

The remainder of the square is zoned R-5-D and fronts on Massachusetts Avenue. It is developed with embassy, chancery, institutional and club uses.

Square 92 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on 21st Street and R Street. It is developed predominantly with row house and apartment uses.

The remainder of the square is zoned C-3-B and fronts on Connecticut Avenue between R and S Streets. It is developed predominantly with commercial uses.

Square 93 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-5-B fronts on R Street, Hillyer Place, Q Street and 21st Street. It is developed predominantly with residential uses and with significant embassy, chancery, institutional and commercial uses.

The remainder of the square is zoned C-3-B and fronts on Connecticut Avenue and 20th Street. It is developed predominantly with commercial uses.

Square 2527 -- Within the NCPC map diagram for chanceries.

The part of the square zoned D/R-1-B fronts on Wyoming Avenue. It is developed with equal amounts of chancery and institutional uses.

The part of the square zoned R-1-B fronts on Kalorama Road, Thornton Place and Wyoming Avenue. It is developed predominantly with apartments and single family residences and includes embassy and chancery uses.

The part of the square zoned R-5-C which fronts on Connecticut Avenue and Kalorama Road is developed predominantly with apartment, hotel and embassy uses.

Square 1194 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on the intersection of M Street and Pennsylvania Avenue at 28th Street, N.W. It is developed entirely with commercial use of a city-wide nature.

The remainder of the square is not zoned;fronts on Rock Creek and Potomac Parkway, and is developed as park.

Square 1195 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Pennsylvania Avenue and 29th Street at their intersection with M Street, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned W-2; fronts on 29th Street and the Chesapeake and Ohio Canal, and is currently being developed with commercial uses.

Square 1196 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 29th and 30th Streets, N.W. It is developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned W-2, fronts on the Chesapeake and Ohio Canal, and is developed with commercial uses and with residential uses under construction.

Square 1197 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 30th and Jefferson Streets, N.W. It is developed entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned W-1; fronts on the Chesapeake and Ohio Canal; and is developed predominantly with residential uses.

Square 1198 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between Jefferson and 31st Streets, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned W-1, fronts on the Chesapeake and Ohio Canal, and is developed with commercial and residential uses.

Square 1199 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 31st Street and Wisconsin Avenue, N.W. It is developed almost entirely with commercial uses of a city-wisde nature.

The remainder of the square is zoned W-1; fronts on the Chesapeake and Ohio Canal,,and is developed almost entirely in commercial uses.

Square 1200 -- Within the NCPC map diagram for Chanceries.

The part of the square zone D/C-2-A fronts on the corner of M Street and Wisconsin Avenue, N.W. It is developed entirely in commercial and public uses of a city-wide nature.

Part of the square is zoned W-2; fronts on Wisconsin Avenue and Potomac Street, and is currently being developed with mixed commercial and residential uses.

The remainder of the square is zoned W-1; fronts on the Chesapeake and Ohio Canal, and is developed with mixed commercial and residential uses.

Square 1202 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 37th and 36th Streets, N.W. It is developed about equally with commercial uses of a city-wide nature and vacant properties and with residential uses.

The remainder of the square is zoned R-3; fronts on Prospect Street, and is developed entirely with residential use.

Square 1203 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 36th and 35th Streets, N.W. It is developed almost entirely with commercial and university uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on Prospect Street, and is developed almost entirely with university uses.

Square 1204 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 35th and 34th Streets, N.W. It is developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on Prospect Street; and is developed entirely with residential uses and vacant property.

Square 1205 -- Within the NCPC map diagram for Chanceries.

The parts of the square zoned D/C-2-A front on M Street between 34th Street, Bank Alley, and 33rd Street, N.W. They are developed entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on Propsect Street; and is developed entirely with residential uses.

Square 1206 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 33rd and Potomac Streets, N.W. It is developed with commercial uses of a city-wide nature and is proposed to be further developed with mixed commercial and residential uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on Prospect Street, and is developed entirely with residential uses.

Square 1207 -- Within the NCPC map diagram for Chanceries.

The entire square is zoned D/C-2-A and fronts on M Street, Wisconsin Avenue, and Prospect and Potomac Streets, N.W. It is developed predominantly with commercial uses of a city-wide nature and with significant residential uses.

Square 1218 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue and Prospect and N Streets, N.W. It is proposed to be developed predominantly with mixed commercial and residential uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on N and P Streets, and is developed entirely with residential uses.

Square 1208 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street and Wisconsin Avenue, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on N and 31st Streets; and is developed almost entirely with residential uses.

Square 1209 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 31st and 30th Streets, N.W. It is developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on N, 31st, and 30th Streets; and is developed almost entirely with residential uses.

Square 1210 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 30th and 29th Streets, N.W. It is developed entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3: fronts on Olive Street; and is developed with residential uses.

Square 1212 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 29th and 28th Street, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on Olive and 29th Streets, and is developed entirely with residential uses.

Square 1214 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on M Street between 29th Street, N.W. and Rock Creek Park. It is developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on 29th and Olive Streets, and is developed predominantly with residential uses.

Square 1231 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between N and O Streets, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on Potomac, N and O Streets; and is developed predominantly with residential uses.

Square 1232 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between N and Dumbarton Streets, N.W. It is developed entirely with commercial uses of city-wide nature.

The remainder of the square is zoned R-3; fronts on 31st, N and Dumbarton Streets, and is developed predominantly with residential uses.

Square 1243 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between Dumbarton and O Streets, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on 31st, Dumbarton and O Streets; and is developed predominantly with residential uses.

Square 1244 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between O and P Streets, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on 33rd, O and P Streets; and is developed entirely in residential and educational uses.

Square 1255 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between P Street and Volta Place, N.W. It is developed almost entirely in commercial uses of a city-wide nature and is proposed to be further developed with mixed commercial and residential uses of a city-wide nature on currently vacant land.

The remainder of the square is zoned R-3; fronts on 33rd and P Streets and Volta Place; and is developed predominantly with residential uses.

Square 1256 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between O and P Streets, N.W. It is developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on 31st, O and P Streets; and is developed entirely with residential uses.

Square 1271 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between P and Q Streets, N.W. It is developed entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on 32nd Street; and is developed entirely with residential uses.

Square 1272 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned C-2-A fronts on Wisconsin Avenue, Volta Place and Q Street, N.W. It is developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on Volta Place and 33rd and Q Streets, and is developed entirely in residential uses.

Square 1279 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between Q and 33rd Streets, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3, fronts on 33rd Street, and is developed almost entirely with residential uses.

Square 1280 -- Within the NCPC map diagram for Chanceries.

The parts of the square zoned D/C-2-A front on Wisconsin Avenue between Q and R Streets, N.W. They are developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3 and R-1-B; front on Q, 32nd, Reservoir and R Streets; and are developed almost entirely in residential uses.

Square 1290 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on 33rd Street at the corner of Reservoir Road, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on 33rd, and 34th Streets, Dent Place, and Reservoir Road; and is developed entirely with residential uses.

Square 1295 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts Wisconsin Avenue between Reservoir Road and R Street, N.W. It is developed predominantly with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3; fronts on Reservoir Road and 34th and R Streets; and is developed entirely with residential uses.

Square 1298 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between R and 34th Streets, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-3: fronts on R and 34th Streets; and is developed entirely in residential uses.

Square 2154 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on Wisconsin Avenue between R and S Streets, N.W. It is developed almost entirely with commercial uses of a city-wide nature.

The remainder of the square is zoned R-1-B; fronts on R, 32nd, and S Streets; and is developed entirely in residential use.

Square 1299 -- Within the NCPC map diagram for Chanceries.

The parts of the square zoned D/C-2-A front on Wisconsin Avenue between S and Calvert Streets, N.W. They are developed entirely with commercial uses of a sub-city nature.

Parts of the square are zoned R-1-B: front on S Street and Wisconsin Avenue; and are developed in residential and recreational uses and included vacant property.

The remainder of the square is zoned C-1; fronts on Wisconsin Avenue; and is developed with a multi-neighborhood use.

Square 1300 -- Within the NCPC map diagram for Chanceries.

The parts of the square zoned D/C-2-A front on Wisconsin Avenue from south of W Place to Calvert Street, N.W. They are developed predominantly with commercial uses of a sub-city nature.

The remainder of the square is zoned R-3; fronts on Tunlaw Road, 37th Street, and Hall and W Place; and is developed entirely with residential uses.

Square 2202 -- Within the NCPC map diagram for Chanceries.

The entire square is zoned D/C-2-A and fronts on the [illegible] Connecticut Avenue and Calvert Street, N.W. It is developed entirely with commercial uses of a sub-city nature.

The remainder of the square is unzoned; fronts on the Rock Creek and Potomac Parkway and Cathedral Avenue; and is developed as park and open space.

Square 2203 -- Within the NCPC map diagram for Chanceries.

The entire square is zoned D/C-2-A and fronts on Connecticut Avenue and Calvert and 24th Streets, N.W. It is developed entirely with commercial use of a sub-city nature.

Square 43 -- Within the NCPC map diagram for Chanceries.

The entire square is zoned D/C-2-A and fronts on P, 22nd and 23 Streets. N.W. It is developed entirely with commercial uses of a sub-city nature.

Square 68 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on 22nd Street, N.W. It is developed entirely with commercial use of a sub-city nature.

Part of the square is zoned C-2-B; fronts on P Street between 22nd and 21st Streets; and is developed with mixed commercial and residential uses.

The remainder of the square is zoned R-5-3; fronts on O and 21st Streets; and is developed predominantly with residential uses.

Square 95 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on P Street at 21st Street, N.W. It is developed predominantly with commercial and institutional uses of a sub-city nature.

Part of the square is zoned R-5-D; fronts on Massachusetts Avenue; and is developed with diplomatic and trade association uses.

The remainder of the square is zoned SP; fronts on Massachusetts Avenue and P Street; and is developed with commercial and trade association uses.

Square 150 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on the corner of 17th and U Streets, N.W. It **has been zoned for commercial uses since 1958.**

Part of the square is zoned R-5-B; fronts on U, V and 17th Streets and Florida Avenue; and is developed predominantly with residential uses.

The remainder of the square is zoned C-M-2; fronts on the corner of Florida Avenue and V Street; and is developed about equally with commercial and residential uses.

Square 151 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on the corner of 17th and U Streets, N.W. **It has been zoned for commercial uses since 1958.**

Part of the square is zoned C-2-A; fronts on 18th Street, and is developed predominantly with commercial uses.

The remainder of the square is zoned R-5-B; fronts on 17th U, T and 18th Streets; and is developed predominantly with residential uses.

Square 175 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on 17th and U Streets, N.W. It **has been zoned for commercial uses since 1958.**

Part of the square is zoned R-5-C; fronts on 16th Street; and is developed predominantly with apartment use.

The remainder of the square is zoned R-5-B; fronts on V Street; and is developed entirely with row houses.

Square 176 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on U Street between 17th Street and New Hampshire Avenue, N.W. It is developed predominantly with commercial and public uses of a sub-city nature.

Part of the square is zoned R-5-C; fronts on New Hampshire Avenue and 17th Street; and is developed entirely with residential uses.

The remainder of the square is zoned R-5-B; fronts on 17th Street; and is developed entirely with residential uses.

Square 189 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on U Street near its intersection with 15th Street, N.W. It is developed predominantly with commercial uses of a sub-city nature.

Part of the square is zoned R-5-C; fronts on New Hampshire Avenue; and is developed entirely with residential and institutional uses.

The remainder of the square is zoned R-5-B; fronts on 15th Street; and is developed entirely with residential uses.

Square 190 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on U Street, near its interesection with 15th Street, N.W. It is developed about equally with commercial use of a sub-city nature and residential uses.

Part of the square is zoned R-5-C; fronts on 16th Street; and is developed almost entirely with residential uses.

The remainder of the square is zoned R-5-B; fronts on 15th and T Street; and is developed almost entirely with residential uses.

Square 204 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on U Street and Portner Place, N.W. It is about equally vacant and developed with public and commercial uses.

Part of the square is zoned R-5-C; fronts on U and T Streets between Portner Place and 15th Street; and is largely vacant with some residential and commercial uses.

Part of the square is zoned R-5-B; fronts on T and U Street; and is developed predominantly with residential and some light industrial uses.

The remainder of the square is zoned C-M-2; fronts on 14th Street; and includes about equal amounts of commercial and residential uses and with vacant properties.

Square 205 - Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on U Street near its intersection with 15th Street, N.W. It is developed almost entirely with commercial and institutional uses.

Part of the square is zoned R-5-B; fronts on T and 15th Streets; and is developed predominantly with residential uses and some light industrial uses.

The remainder of the square is zoned C-M-2; fronts on 14th Street; and is developed predominantly with commercial uses with some light industrial and public uses.

Square 154 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on the corner of 17th and R Streets, N.W. It is developed predominantly with commerci uses;

Part of the square is zoned R-5-B; fronts on 17th and R Streets; and is developed almost entirely with residential uses.

The remainder of the square is zoned R-5-C; fronts on New Hampshire Avenue; and is about equally developed with diplomatic, commercial and club uses and with residential uses.

Square 155 -- Within the NCPC map diagram for Chanceries.

The parts of the square zoned D/C-2-A front on 17th Street between Q, Corcoran and R Streets, N.W. They are developed about equally with residential and commercial uses of a sub-city natur

Parts of the square are zoned R-5-B; front on Q, Corcoran, and R Streets; and developed almost entirely with residential and public uses.

The remainder of the square is zoned R-5-C; front on New Hampshire Avenue; and are developed about equally with commercial and diplomatic uses and with residential uses.

Square 178 -- Within the NCPC map diagram for Chanceries.

The part of the square zoned D/C-2-A fronts on the corner of 17th and R Streets, N.W. It is developed entirely with commercial uses of a sub-city nature.

Parts of the square are zoned R-5-B: front R Street, Riggs Place, and S Street; and are developed almost entirely with residential uses.

The remainder of the square are zoned R-5-C; front on 16th Street; and are developed predominantly with residential uses.

Square 179 -- Within the NCPC map diagram for Chanceries.

The parts of the square zoned D/C-2-A front on 17th Street, between R, Corcoran, and Q Street. They are developed predominantly with commercial uses of a sub-city nature.

Parts of the square are zoned R-5-B; front on R, Corcoran, and Q Street; and are developed almost entirely with residential uses.

The remainder of the square are zoned R-5-C; front on 16th Street; and are developed predominantly with residential uses and some commercial uses.

Square 180 -- Within the NCPC map diagram for Chanceries.

The parts of the square zoned D/C-2-A front on 17th Street between P, Church, and Q Streets, N.W. They are developed predominantly with commercial uses of a sub-city nature and with significant residential uses.

Part of the square is zoned R-5-B; fronts on Q Street and is developed almost entirely with residential uses.

Parts of the square are zoned SP; front on 16th Street and P Streets; and are developed about equally with public, institutional, and commercial uses and with residential uses.

Advisory Neighborhood Commission Issues and Concerns

The Zoning Commission is required by law to give great weight to the issues and concerns of citizens, as represented by Advisory Neighborhood Commissions (D.C. Law 1-58), and to state in its actions how it responded to them, [Knopff v. District of Columbia Alcoholic Beverage Control Board, 381A 2d 1372 (1977)].

The Zoning Commission received comments from eight Advisory Neighborhood Commissions (ANC's), including ANC 1C, ANC 1D, ANC 2A, ANC 3C, ANC 3D, ANC 3E, and ANC 3G. Their major issues and concerns were generally the sam though emphasis varied. A number of individual citizens and citizen organizations expressed much the same issues and concerns.

The Zoning Text and maps which emerged were responsive to the ANC issues and concerns. Their major issues and concerns (expressed at the hearings of February 27, 1978, and of June 29, 1978, and in written statements for the record) and the Zoning Commission responses to them are as follows:

A. The proposed Zoning text and maps are illegal
The proposed text and maps contravene the Chancery Act by permitting chanceries in residential areas of low to medium density, i.e. in R-5-B and more restrictive zone districts.

Response: "D" districts as defined by the map, are in reality "mixed use" zone districts containing signicant diplomatic, institutional, and residential uses. The D. C. Corporation Counsel informed the Zoning Commission that there was no legal bar to the mixed use zoning proposed. A copy of the Corporation Counsel's opinion is attached.

B. Chancery use is incompatible with residential areas, which need to be preserved and protected. Chanceries are office uses and do not belong as a matter-of-right in residential areas from which office uses are otherwise excluded. The proposal removes or reduces restrictions on chancery use in all residential districts, permitting their use and relaxing existing restrictions on percentage-of-lot occupancy. This, in turn, increases pressures for such development in residential areas, invites demolition and alteration of existing structures, causes mutilation of landscaping to accommodate required parking, drives up the price of housing in impacted neighborhoods, and creates unsafe traffic and parking conditions.

Response: The Zoning Commission incorporated into the regulations a qualified matter-of-right coupled with a BZA site plan review to ensure compatibility of development for chancery uses in all underlying areas. The regulations, as adopted, eliminate the previously more liberal lot occupanry provision for chanceries and now require the same standards as other development in the districts. The Commission, in response to the need to reduce development pressures on residential areas, also opened all non-neighborhood serving commercial areas to chancery development.

By restricting height, bulk, and lot occupancy, the Commission also reduced the possibilities of demolition and alteration of existing structures. It also adopted careful and appropriate parking and landscaping standards as measures to minimize their impacts and to protect or buffer their surroundings.

See also the answers to issues C, E and F.

C. The proposed safeguards for historic landmarks are too weak, even more so than those in the NCPC Foreign Missions Element

Historic and architectural landmarks need more protection than that provided in the proposed regulations, at least equal to that called for by NCPC in the Foreign Missions and International Agencies Element. The BZA must have the authority to act on the State Historic Preservation Officer's opinion and advice.

Response: The histotic preservation regulations and procedures have been strengthened commensurate with the NCPC plan element. They now provide the opportunity for a joint hearing of the BZA and the Historic Preservation Officer.

The BZA review and more stringent development standards required by the Commission also serve to preserve historic and architectural landmarks by eliminating previous development incentives which could have led to possible demolition and external alteration of structures. Landscaping requirements should also help preserve their immediate environment.

See also the answer to B.

D. Chanceries should be permitted in commercial districts, as they are currently permitted to do under the Zoning Regulations.

Chanceries should be able to locate in all commercial districts where they are appropriate, whether within the "D" district or outside. This would reduce pressures of chancery development on residential areas where they are not appropriate or compatible.

Response: The Commission has opened non-neighborhood serving commercial districts to chanceries and international atencies to reduce pressures on residential areas and to increase the availability of suitable sites in commercial districts where chanceries are appropriate. There was disagreement among some of the ANC's: some wanted all commercial districts opened to chanceries, while others opposed these uses in neighborhood shopping districts (C-1). The Commission agreed with the latter in that chanceries and international agencies were of a non-neighborhood character and precluded them from the C-1 district and required BZA review for such uses in the C-2-A district to ensure compatibility and appropriateness.

E. The proposed BZA review does not give adequate protection to residential areas.

The originally proposed BZA review criteris are not sufficient to ensure compatibility of chancery development with surrounding residential neighborhoods and to mitigate the adverse impacts that results from mixing the two uses.

Response: The Zoning Commission has strengthened the review process to provide more restrictive development criteria and to give the BZA greater authority to require changes in proposed chanceries to ensure compatibility with surrounding residential areas. The regulations incorporate the restrictive criteria of the Chancery Act and generally apply them to the underlying districts of lesser density than R-5-C and R-5-D. In addition, the regulations include appropriare requirements for parking, landscaping, lot occupancy, height, bulk, and historic preservation.

See also B, C and F.

F. The proposed regulations do not adequately protect against traffic and parking problems.

Chancery parking already severely and unacceptably impacts the neighborhoods proposed to be mapped in the "D" districts.

Permitting further chancery development in these areas can only exacerbate these conditions.

Response: The Zoning Commission has recognized the parking problem associated with chancery development and has adopted specific and strict parking standards as part of the BZA review process to ensure compatibility. In addition, the regulations provide for appropriate landscaping to screen required on-site parking and to diminish their visual and environmental impacts. These regulations and standards supplement the neighborhood residential programs operating in many of the areas covered by these regulations. Other neighborhoods can be included in the program upon application by the residents.

The Commission has also recognized the parking and related problems associated with the chanceries by adopting the restrictive development standards of the regulations as well as the BZA site review process.

See B and E.

G. The "D" district should not overlay the SP, R-5-C, and R-5-D Zone districts.

The SP, R-5-C and R-5-D zone districts should not be covered by the overlay "D" district as originally proposed and as called for by NCPC in the Foreign Missions and International Agencies Element. The Zoning Commission should not adopt the proposed regulations until after it acts on the SP zoning revisions and resolves the Dupont Circle Case.

Response: The Zoning Commission has not mapped the SP, R-5-C, or R-5-D zone districts as "D" districts. The SP areas, however, are covered by the new regulations and BZA review. The standards contained in the regulations for the SP district are as restrictive as those governing the mapped "D" areas to assure compatibility and to minimize negative impacts. The R-5-C and R-5-D districts are covered by the Chancery Act, which cannot be put aside, and these regulations which supplement the criteria of the Act in these districts.

H. BZA review should apply to chanceries and International Agencies in all Zone Districts.

Chanceries and international agencies are office functions which have unique requirements and impacts. Consequently, they should not be permitted to develop as a matter-of-right. They should be reviewed by the BZA in all districts to ensure compatibility of development.

Response: The Zoning Commission adopted regulations which provide for BZA review of all chancery and international agency uses in all districts except high density mixed use (CR and W), commercial (C-2-B, C-3, C-4 and C-5), and industrial (C-M and M) districts. They are able to locate in these districts under the existing regulations and where they do not adversely impact those districts.

Individual ANC issues and concerns and specific Zoning Commission responses to them are as follows:

February 27, 1978 Hearing on the Original Zoning Proposals:

ANC 1D

1. Blocks that are 100% residential should not be zoned D-1, as suggested by NCPC.

   At the order of the Zoning Commission, the mapping was reviewed and inappropriate locations eliminated. The answer to #5 is also relevant.

2. It is unlawful under the Chancery Act to put offices in the R-5-B and more restrictive residential areas.

The Zoning Commission was informed by the Corporation Counsel that there was no bar to the mixed use zoning proposed, See attached opinion.

3. Embassies are preferred over chanceries along Massachusetts Avenue, N. W.

   At the order of the Zoning Commission, a review procedure for chanceries was developed as a limited natter-of-right procedure. It is applicable to the area in question.

4. The NCPC map diagram and the D-1 District based thereon conflict with (a) the findings and intent of Congress and the Chancery Act; (b) the District of Columbia Council established neighborhood residential parking program; and (c) the finding made by NCPC in its Planning Report Description of Environmental Impact and Plan Element.

   a) See answer to #2 above.
   b) See answer to #3 above and #7 below
   c) Such information if applicable to a specific site could be presented to the BZA during the review.

5. The Sheridan-Kalorama area should remain residential.

> Mapping of this area was recommended in the NCPC plan element diagram. The answers to #1 and #3 are also relevant.

6. Once an area is designated for chanceries,private individuals cannot compete to buy property.

> The regulations adopted by the Zoning Commission provide for a review of chancery locations in certain Districts and allow chanceries to locate in certain commercial areas in order to relieve pressure on residential areas.

7. Existing and potential problems associated with chancery development was emphasized.

> Appropriate parking standards were developed to be applied in the review process. The answer to #3 is also relevant.

ANC - 1C

8. The proposal is wrong legally since it would contravene the Chancery Act.

See answer to #2 above.

9. The overlay Districts remove all restrictions on diplomatic office construction or use in all residential Districts (the pre-1957 situation), and then progressively tighten the screw against those residential neighborhoods in three ways: (a) by relaxing existing restrictions on percertage-of-lot occupancy, thus permitting more intensive uses and inviting demolition or at a miminum defacement of existing structures; (b) by virtually compelling further demolition of structures and mulitation of landscape by adding the inevitable parking-space requirements; and (c) by closing off to chanceries many commercial Districts, which are now available for diplomatic offices, while retaining existing permissible chancery uses in residential areas (namely R-5-C and R-5-D Districts).

a) At the order of the Zoning Commission, the lot occupation provision was deleted and chancery development, where permitted, is held to the same standards as other development.

b) Appropriate arrangement of parking and landscaping are provided for in the review procedures.

c) See answer to #6 above relating to commercial areas.

10. More protection is needed for Historic landmarks. BZA needs authority to act on the Historic Preservation Officer's opinion.

At the order of the Zoning Commission, the historic preservation procedures have been strengthened, including the opportunity for joint hearing of BZA and the Historic Preservation Officer. Also see answer to #29 and 33.

11. The proposal (a) greatly increases the total residential area subject to diplomatic office development, (b) substantially increases the pressure for such development on residential areas already subject to it, and (c) greatly reduces the commercial area available for it.

a) See answers to #1, 3, 5 and 6 above.

b) See snswers to #1 and 3 above.

c) See answer to #6 above.

12. We made the following recommendations: (a) no chancery uses as of right in residential Districts, that the D-1 overlay District be eliminated and that residential and special purpose District be eliminated in the D-2 Overlay District; (b) that chancery uses be permitted in all commercial Districts, whether within or without the D-2 Overlay District; (c) regulations or legislation be enacted prohibiting demolition or significant exterior alteration of residential buildings to facilitate diplomatic uses of any parcel.

a) The Zoning Commission has given up the two D District concept. The answers to #3 and 6 are also relevant.

b) See answer to #6 above.

c) By restricting height, bulk, and lot occupancy the Zoning Commission has reduced the possibilities of demolition and alterations. The answers to #3, 10 and 33 are also relevant.

ANC - 3C

13. We support the Van Ness International Enclave.

    The Zoning Commission has no jurisdiction over Federal property.

14. We object to chancery use in any residential area as a matter-of-right.

    See answer to #3 above.

15. We favor removal of the D-1 Overlay.

    See answer to #12 (a) above. The answers to #1 and 3 are also relevant.

16. We oppose inclusion of the property at 3415 Massachusetts Avenue for chancery use.

    Contrary testimony was presented at the June 29, 1978 hearing on behalf of the owner. The answer to #1 is also relevant.

17. We support exclusion of the area on Connecticut Avenue, N. W. (from Calvert to Woodley: Woodley to Cathedral) from chancery use.

The area zoned R-5-C, C-2-A and C-2-B is developed with medium-high density residential, large hotels, commercial and includes diplomatic uses. The answers to #3 and 6 are also relevant.

ANC -3D

18. Offices whether foreign or domestic, do not belong as a matter-or-right in residential Districts from which they are currently restricted.

    See answers to #1, 3, 5, and 6.

19. Ambassadors' residences can be located, of course, in any residential area.

    NCPC and the Zoning Commission recognize embassies as residential uses.

20. Unless there are specific circumstances involved in a particular location which warrant a hearing to permit a special exception for office usage, chanceries do not belong in residential areas.

See answers to # 1 and 3.

21. Opposes these office uses in neighborhood shopping (C-1) zones.

At the order of the Zoning Commission new chanceries and international agencies have been precluded in the C-1 District.

ANC - 3E

22. Supports the embassy enclave at Van Ness Street.

See answer to #13.

23. Opposes placement of chanceries and embassies in residentially zoned neighborhoods.

See answers to #1, 2, 3, 6, and 19.

June 29, 1978 Hearing on the Revised Zoning Proposals:

ANC - 1D

24. Consideration of the alternate draft is academic because of the Chancery Act.

See answer to #2.

25. Purchases of property for chanceries inflate prices and effect tax assessments.

    See answers #1, 3 and 6.

26. We endorse opening up all commercial areas to chanceries.

    See answers to # 6 and 21.

27. Cited examples of misrepresentation and bad faith on the part of two governments.

    See answer to #3.

ANC - 1C

28. The revised proposal is better because it makes commercial areas available.

    See answer to #6.

29. The revised proposal is weaker regarding the protection of Historic Landmarks.

    Following this hearing the Zoning Commission gave the BZA greater authority regarding historic landmarks. Also see answers to #10 and 33.

30. No Chancery use as a matter-or-right in residential areas.

    The regulations adopted by the Zoning Commission precluded matter-of-right chanceries in residential Districts.

31. Chanceries should be permitted in all commercial areas.

    See answers to #6 and 21.

32. Prohibit demolition or exterior alteration of residential buildings for chancery or international agency use.

    See answers to #3, 6, 9 (a), and 10.

33. The Board of Zoning Adjustment review does not give adequate protection to residential neighborhoods.

    The regulations adopted by the Zoning Commission give the BZA substantial authority in areas subject to its review.

34. Expansion of residential areas vulnerable to chanceries beyond R-5-C and R-5-D is not good.

    See answers to #1, 3 and 5.

35. Oppose conversion of residential blocks to office and institutional uses.

See answers to #1, 2, 5 and 6.

36. There is a shortage of housing but a surplus of land zoned for commercial.

See answers to #1 and 6.

37. 16th Street is currently used largely for residential purposes.

Most of 16th Street, below Park Road, is zoned R-5-C and thus covered by Chancery Act.

38. If offices are not suitable in C-1 they are not suitable in a residential area.

The Zoning Commission has precluded diplomatic offices in the C-1 District partly to preserve these limited areas for neighborhood services. The answer to #21 is also relevant.

ANC - 2A

39. We do not like the overlays.

The Zoning Commission has adopted one Mixed Use Diplomatic (D) District provided for its combination with already existing Districts and mapped it a very conservative manner.

40. Chanceries should be permitted in commercial areas.

See answer to #6.

41. We go along with the Chancery Act.

See answers to 2, 3, 5 and 37.

42. Review criteria should apply to all chanceries and international agencies in all Districts.

The regulations adopted by the Zoning Commission provide for BZA review except in high density mixed use, commercial and industrial areas.

43. Higher criteria are needed in R-5-C and R-5-D Districts.

The regulations adopted by the Zoning Commission supplement the criteria of the Chancery Act in such areas.

44. Add the Chancery Act language regarding compatibility with present and proposed development of the neighborhood.

The regulations adopted by the Zoning Commission include this language of the Chancery Act.

45. The Commission should not act on SP until the SP case is resolved.

    The regulations adopted by the Zoning Commission for the SP District are more restrictive than heretofor. The Commission took Proposed Action on the SP case on August 28, 1978.

46. Concern about the World Bank zoning states.

    The regulations adopted by the Zoning Commission provide that valid applications to locate international agencies employing the PUD (Article 75) process may continue under that process.

47. Accept matter-of-right chanceries and international agencies in C-3, C-4, C-5, C-m and M Districts.

    The regulations adopted by the Zoning Commission provide for this.

48. Population is decreasing in our ANC.

    See answers to #1 and 6.

ANC - 2B

49. Opposes chanceries in residential and SP areas.

See answers to #1, 5, 6, and 45.

50. Opposes BZA process, particularly as envisaged by NCPC on the matter-of-right question.

See answer to #23.

51. Oppose D-1 overlay of SP, R-5-C and R-5-D.

The Zoning Commission has not mapped SP, R-5-C or R-5-D areas as (D) Districts. The SP areas are covered by regulation and BZA review. The R-5-C and R-5-D areas are covered by Chancery Act and this regulation.

52. The SP-1 in the community plan would restrict chanceries in special cases and the Zoning Commission should resolve the Dupont Circle case first.

See answer to #45.

53. There are traffic and parking problems in regard to chanceries.

See answers to #1, 3, 6 and 7.

54. Concern about the loss of residential units to office use and removal of property from the tax rolls.

See answers #1, 5 and 6.

55. The NCPC 1968 Plan designates the Dupont Circle area for high density residential not office us .

See answers to #1, 3, and 5.

56. The curtailed BZA review is not acceptable.

See answer to #33.

ANC - 3G

57. Chanceries should be prohibited in the C-1 District.

See answer to #21.

ANC -3E

58. We wish to see no embassies and chanceries placed in residentially zoned neighborhoods.

See answers to #1 and 6.

59. We fully support the Van Ness Street embassy enclave and hope the Zoning Commission will move swiftly to open the sluice-gates for this project to move forward.

See answer to #13.

National Capital Planning Commission Review

The proposed map and text amendments were referred to the National Capital Planning Commission for the review required by Section 492(b)(2) of the District of Columbia Self-Government and Governmental Reorganization Act. The Planning Commission considered the proposed amendments at a special meeting held on September 12, 1978. At that time, the Planning Commission heard several citizen representatives suggest that chanceries should not be permitted in any residential area, but that if they were, they should be permitted only with the full review and approval of the Board of Zoning Adjustment. After considering the testimony and after discussion, the Planning Commission adopted the recommendation of the executive director by a vote of four in favor to three opposed. The Planning Commission thus reported that the proposed amendment would not be inconsistent with the Comprehensive Plan for the National Capital and would not have an adverse impact on the interests or functions of the Federal Establishment in the National Capital if the Comprehensive Plan were amended and if the proposed Zoning Regulations were amended.

The amendments requested by the Planning Commission were as follows:

1. That chancery use be permitted as a matter-of-right in all locations appropriately mapped by the NCPC, and that any BZA reviews be limited to determining that height, bulk and parking requirements are met, and that appropriate screening and buffering be provided.

2. That in SP and C-2-A Districts, new chancery uses be permitted only in those locations mapped in the Comprehensive Plan.

3. That international agencies be permitted only in SP, C-2-B, C-3, C-4 and C-5 mapped in the Comprehensive Plan.

4. That existing international agencies in R-5-C, R-5-D, SP or CP Districts be permitted to expand or be replaced.

The Zoning Commission is required to give careful consideration to the views of the NCPC. In this matter, the Zoning Commission has developed an extensive record, including testimony from many interested persons representing diverse points of view. The Zoning Commission must always be mindful of all of the various perspectives presented.

The most serious problem presented by the NCPC recommendations is the request that chancery use be permitted as a matter-of-right in those areas in or immediately adjacent to primarily residential areas. The Zoning Commission received extensive testimony before it, especially from numerous Advisory Neighborhood Commissions that neighborhoods which contain residential uses must be protected, and that the proposed review procedure was essential to assure that protection. The NCPC plan acknowledges this requirement as specified in Section 313.311 of the objectives:

Retain existing locations and select new locations for Foreign Missions and International Agencies in areas of compatible land uses with environmental amenities appropriate for the function, with special care given to protecting residential areas. (EMPHASIS ADDED)

The Zoning Commission is strongly committed to the protection of neighborhoods which include residential uses in the District, and the Zoning Commission believes that this protection cannot be insured unless the Board of Zoning Adjustment has the power to review and approve the location and characteristics of chanceries within or immediately adjacent to such neighborhoods. For this reason the Zoning Commission finds that consistency with the objectives of Section 313.311 and the obligation to maintain the stability of neighborhoods which include residential uses require the full compatibility review adopted in this order.

As to the other recommendations of the NCPC, the Zoning Commission can accept the suggestions that not all C-2-A Districts are appropriate for chancery use and that industrial districts are not appropriate for chancery or international agency use. The proposed regulations have been amended to incorporate these changes.

As to the recommendation that existing international agencies should be allowed to expand or be replaced at present locations, the Commission finds that there are only two such agencies where expansion would be precluded by the adopted regulations. In one case, the use conforms to existing Zoning Regulations. In the other case, expansion is not planned and in any case, is not feasible given the nature of the location. The Commission therefore finds that it is unnecessary to include in the regulations this provision suggested by NCPC.

This statement of reasons was adopted by the Zoning Commission at its public meeting held on September 14, 1978 by a vote of 4-0 (Walter B. Lewis, Theodore F. Mariani and John G. Parsons to adopt, Ruby B. McZier to adopt by proxy, George M. White not present, not voting).

WALTER B. LEWIS
Chairman

STEVEN E. SHER
Executive Director

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 236
CASE NO. 77-45
September 14, 1978

Pursuant to notice, public hearings of the District of Columbia Zoning Commission were held on January 23, February 27, June 22 and June 29, 1978 to consider proposed amendments to the text of the Zoning Regulations. Such amendments proposed to revise the regulations concerning the location of embassies, chanceries and international agencies, including the creation of a new Diplomatic District.

As a companion Order to this case, the Commission is also adopting Order No. 237, mapping the Diplomatic District at various locations in the District of Columbia. The Commission is also issuing a full statement of reasons, setting forth the basis for its decision on both the text and map cases.

The Commission believes that the amendments contained herein are in the best interests of the District of Columbia and are consistent with the intent and purposes of the Zoning Regulations and the Zoning Act. The Commission therefore hereby Orders adoption of those amendments to the Zoning Regulations specified in the document entitled "Zoning Text Amendment for Chanceries and International Agencies," dated September 14, 1978, a copy of which is attached hereto and made a part hereof.

Vote of the Commission taken at the public meeting held on July 24, 1978: 3-0 (Walter B. Lewis, George M. White and John G. Parsons to approve the changes, Theodore F. Mariani and Ruby B. McZier not present, not voting).

WALTER B. LEWIS
Chairman

STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on September 14, 1978 by a vote of 4-0 (John G. Parsons, Theodore F. Mariani and Walter B. Lewis to adopt, Ruby B. McZier to adopt by proxy, George M. White not present, not voting).

In accordance with Section 3.62 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, these amendments to the Zoning Regulations are effective on 22 SEP 1978.

September 14, 1978

ZONING TEXT AMENDMENT
FOR
CHANCERIES AND INTERNATIONAL AGENCIES

Z. C. CASE 77-45

The proposed amendment is, as follows:

I. Amend and add new definitions in Section 1202, as follows:

A. Delete the existing chancery definition and substitute the following:

> Chancery: The site and any building or buildings therein containing offices of a Foreign Mission and used for diplomatic, legation or consular functions. The term chancery shall include a chancery-annex or the business offices of those attaches of a foreign government who are under the personal direction and superintendence of the chief of mission and who are engaged in diplomatic activities recognized as such by the Department of State, Federal Government. The term chancery shall not include the business offices of nondiplomatic missions of foreign governments, such as purchasing, financial, educational, or other missions of a comparable nondiplomatic nature.

B. Delete the existing embassy definition and substitute the following:

> Embassy: The official residence of an ambassador or other chief of a diplomatic mission or that portion of a combined chancery/embassy devoted to use as such official residence.

C. Insert a definition of an historic district, as follows:

> Historic District: means an area, place, site, vicinity, or neighborhood, designated as such by the Joint Committee on Landmarks of the National Capital for inclusion in the District of Columbia Inventory of Historic Sites.

D. Insert a definition of an historic landmark, as follows:

> Historic Landmark: means a building, structure, site, place, monument, work of art or other similar object, designated as such by the Joint Committee on Landmarks of the National Capital for inclusion in the District of Columbia Inventory of Historic Sites.

E. Insert a definition of an international agency, as follows:

> International Agency: A public international agency which has been designated by Executive Order of the President as entitled to the privileges, exemptions, and immunities of the International Organization Immunities Act of 1945, as amended.

II. Add a new Article 46, as follows:

ARTICLE 46

MIXED USE DIPLOMATIC DISTRICT (D) AND RELATED PROVISIONS FOR THE LOCATION OF CHANCERIES AND INTERNATIONAL AGENCIES

Section 4601 -- Preamble

This Article establishes regulations for the location of Chanceries and International Agencies, provides a review process to give special care to the protection of residential areas, and encourages the location of chanceries in commercial and mixed use Districts. The regulations are adopted in implementation of the Foreign Missions and International Agencies Element of the Comprehensive Plan forthe National Capital and other applicable provisions of law governing foreign missions and international agencies.

It provides that Chanceries may locate in medium-high and high density residential areas in commercial areas and in mixed use areas. It establishes a Mixed Use Diplomatic (D) District to be mapped in implementation of the Foreign Missions Element. It establishes standards for the review of locations of Chanceries in the (D) District and certain other specified Districts to assure that the Chancery is not incompatible with the present and proposed development of the neighborhood.

This Article also provides for the location of embassies in Districts where residences are permitted and for the location of international agencies in Districts where offices are permitted.

Section 4602 -- Mixed Use Diplomatic (D) District

4602.1 -- The Mixed Use Diplomatic (D) District shall be mapped at suitable locations in implementation of the Foreign Missions and International Agencies Element. The mapping shall be in combination with any District mapped at such location and shall not be in lieu of such District. All uses, buildings and structures permitted in accordance with this Section and the appropriate Sections of the regulations for the District with which the mapped (D) District is combined shall be permitted in such combined Districts. All restrictions and prohibitions provided with respect to either of the Districts so combined shall also apply, except as specifically modified by this Article.[1]

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[1] The D District is always mapped in combination with another District. The provisions of both Districts apply. For example, where a D District is mapped together with an R-5-B District, the regulations of the D District and the regulations of the R-5-B District in regard to height, bulk and density apply to any chancery use. Such a combined designation will show on the Zoning Map as D/R-5-B.

Section 4603 -- Review Standards

4603.1 -- In areas mapped D, R-5-C, R-5-D, or SP, a Chancery is a permitted use, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed Chancery is not incompatible with the present and proposed development of the neighborhood.[2]

4603.2 -- In determining that the proposed chancery is not incompatible with the present and proposed development of the neighborhood, the Board of Zoning Adjustment must find that:

4603.21 -- The architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood.

4603.22 -- The height of the building does not exceed the maximum permitted in the applicable single or combined District in which it is located.

4603.23 -- The percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable single or combined District in which it is located.

4603.24 -- The maximum FAR does not exceed the FAR prescribed for the applicable single District or the combined Districts in which it is located or an FAR of 1.5, whichever is greater.

4603.25 -- Except for Chanceries located in an R-5-C or R-5-D District, off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use.

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[2] For complementary use provisions and relevant development standards see:

R-5-C and R-5-D, 3105.4, 3201, 3301, 3302, 3303, 3304, 3305, 3306, and 3308;

SP, 4101.4, 4201, 4301, 4302, 4303, 4304, 4305, 4306, and 4307; and

4603.26 -- In an R-5-C District, off-street parking spaces will be provided at a ratio of not less than one such space for each twelve hundred (1,200) square feet of gross floor area devoted to Chancery use.

4603.27 -- In an R-5-D District off-street parking spaces will be provided at a ratio of not less than one such space for each one thousand eight hundred (1,800) square feet of gross floor area devoted to Chancery use.

4603.28 -- The use will not create dangerous or other objectionable traffic conditions.

Section 4604 -- Process

4604.1 -- The Board of Zoning Adjustment shall refer the application and site plan to the District of Columbia Municipal Planning Office (MPO) for coordination, review and report, said report to include any recommendations with respect to the application and site plan of other District departments and agencies including the Departments of Transportation, Environmental Servies, and Housing and Community Development. Comment also shall be requested of the U. S. Department of State, the National Capital Planning Commission, and in areas of its jurisdiction, the U. S. Commission of Fine Arts.

4604.2 -- When the chancery is to be located in a designated historic district or historic landmark, the application shall be referred to the Historic Preservation Officer of the District of Columbia for a report on the impact of the proposed chancery on said district or landmark. To facilitate this review the applicant shall, at the request of the Historic Preservation Officer, submit exterior elevations of all buildings, and structures showing any proposed extension, alterations or additions. When mutually agreed, the Board of Zoning Adjustment shall have authority to arrange concurrent hearings with the Historic Preservation Officer.

4604.3 -- In making its determination that the proposed chancery is not incompatible with the present and proposed development of the neighborhood, the Board of Zoning Adjustment may require such special treatment and impose such reasonable conditions as it shall deem necessary to mitigate any adverse impacts identified in accordance with Sections 4603 and 4604. Such conditions may include but are not limited to the location of structures and facilities, off-street parking apaces, loading berths, curb cuts, and requirements for screening, noise control and the protection of historic districts and historic landmarks.

Section 4605 -- Chanceries in Other Districts

4605.1 -- In a W, CR, C-2-B, C-3, C-4 or C-5 District a chancery use shall be established in accordance with the height, yard, court, lot occupancy, floor area ratio, parking space and loading berth requirements of the District in which it is proposed to be located.3/

4605.2 -- Chancery uses existing on 22 SEP 1978 (effective date of this amendment) may expand where located or be replaced by other chancery uses in accordance with this Article, provided that in any R-1-A, R-1-B, R-2, R-3, R-4, R-5-A, R-5-B, C-1, C-2-A or SP District any additions to the buildings or structures used as a chancery are approved in accordance with the provisions of Sections 4603 and 4604.4/

3/ For complementary use provisions and relevant development standards see:

W, 4402, 4403, 4404, 4405, 4406, and 4407;
CR, 4502, 4503, 4504, 4505, 4506, and 4507; and
C-2-B, C-3, C-4, and C-5, 5102, 5201, 5301, 5302, 5303, 5304, 5305, 5306, and 5307.

4/ For complementary use provisions and relevant development standards see:

R-1-A, R-1-B, R-2, R-3, R-4, R-5-A, and R-5-B, 3101, 3201, 3301, 3302, 3302, 3304, 3305, 3306, and 3307; and

C-1 and C-2-A, 5101.3, 5102, 5201, 5301, 5302, 5303, 5304 5305 and 5306.

Section 4606 -- Embassies

4606.1 -- An embassy shall be permitted in any District except a C-M or M District, subject to the standards of use, occupancy and development of such District.[5]

Section 4607 -- International Agencies

4607.1 -- An international agency shall be permitted in any SP, W, CR, C-2-B, C-3, C-4, or C-5 District provided that:

4607.11 -- The international agency is established in accordance with the standards of use, occupancy and development of the District in which it is located.

4607.12 -- In an SP District the establishment of international agency is approved in accordance with the provisions of Sections 4603 and 4604.[6]

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[5] For complementary use provisions and relevant development standards see:

R-1-A, R-1-B, R-2, R-3, R-4, R-5, 3101.3, 3201, 3301, 3302, 3303, 3304, 3305, 3306, 3307 and 3308; SP, W, CR and C, Articles 41, 42, 43, 44, 45, and Chapter 5.

[6] For complementary use provisions and relevant development standards see:

SP, 4101.4, and Articles 42 and 43; W and CR. Articles 44 and 45; C-2-B, 5102.3 and Articles 52, 53, and 54; and C-3, 5103, 5104, and Articles 52, 53, and 54.

4

Section 4608 -- Pending PUD Applications

4608.1 -- All valid applications to locate chanceries or international agencies under procedures of the planned unit development process (PUD) filed before October 6, 1977 and pending on 22 SEP 1978 (effective date of this amendment) may, at the option of the applicant, continue to be processed under those procedures.7/

III. Other sections of the Zoning Regulations shall be amended, as follows:

A. Amend Sub-section 3101.310, Residential Use Regulations, as follows:

3101.310 -- Embassy, pursuant to the provisions of Article 46, Section 4606.

B. Add a new paragraph as follows:

3101.313 -- Chancery use existing on 22 SEP 1978 (effective date of this amendment) provided that before any additions to buildings or structures shall be made, the Board of Zoning Adjustment determines after a public hearing that the proposed use and the building in which the use is to be located are compatible with the present and proposed development of the neighborhood, pursuant to the provisions of Article 46, Subsection 4605.2

7/ For relevant PUD procedures and development standards see 7501.

C. Delete existing paragraph 3101.410 and the related foot note. Renumber existing paragraph 3101.411 to become 3101.410, renumbering subsequent paragraphs.

D. Add a new paragraph as follows:

> 3105.46 -- Chancery in the R-5-C and R-5-D Districts, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed use and the building in which the use is to be located are not incompatible with the present and proposed development of the neighborhood, pursuant to the provisions of Article 46, Sections 4601, 4603 and 4604.

E. Amend the SP District regulations as follows:

1. Delete chanceries from the list of uses in Sub-section 4101.35 and 4101.42.

2. Add a new paragraph:

> 4101.49 -- Chancery or international agency, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed use and the building in which the use is to be located are not incompatible with the present and proposed development of the neighborhood, pursuant to the provisions of Article 46, Sections 4603, 4604, and 4605 or 4607.

F. Amend the W and CR District regulations by adding the following paragraphs:

4402.220 -- Chancery or international agency, pursuant to the provisions of Article 46, Sections 4605 or 4607.

4502.221 -- Chancery or international agency, pursuant to the provisions of Article 46, Sections 4605 or 4607.

G. Amend the C-1 District regulations as follows:

5101.37 -- Office, except new chanceries and international agencies.

5101.39 -- Chancery use existing on 22 SEP 1978 (effective date of this amendment) provided that before any additions to buildings or structures shall be made, the Board of Zoning Adjustment determines after a public hearing that the proposed use and the building in which the use is to be located are not incompatible with the present and proposed development of the neighborhood, pursuant to the provisions of Article 46 and Subsection 4605.

H. Amend the C-2 District regulations as follows:

5102.37 -- Chancery or international agency in the C-2-B District, pursuant to the provisions of Article 46, Sections 4605.1 and 4607.1.

I. Amend the C-M District regulations to add a new paragraph 6101.34, renumbering subsequent paragraphs.

6101.34 -- Chancery or international agency use existing on 22 SEP 1978 (effective date of this amendment).

Add to the end of Paragraph 6101.31 the following:

"and chanceries and international agencies".

J. Amend Subsection 8207.2, as follows:

1. Delete the following:

   Chancery, any R District, 3101.410 and New Office building - chancery, SP District,4101.42.

2. Add the following:

Chancery, expansion	Any R District	3101.313, 4603, 4604
Chancery	R-5-C or R-5-D	3105.46, 4603, 4604
	SP	4101.49, 4603, 4604
International Agency	SP	4101.49, 4603, 4604

K. Amend Section 2101 to include the D District, as follows:

2101.17 -- Mixed Use Diplomatic District
D -- Low and medium density.

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 237
CASE NO. 77-46
September 14, 1978

Pursuant to notice, public hearings of the District of Columbia Zoning Commission were held on January 23, February 27, June 22 and June 29, 1978 to consider proposed amendments to the Zoning Map. Such amendments proposed to designate certain areas within the District of Columbia with Diplomatic Overlay Districts.

As a companion Order to this case, the Commission is also adopting Order No. 236, creating the Diplomatic District and otherwise regulating the location of embassies, chanceries and international agencies. The Commission is also issuing a full statement of reasons setting forth the basis for its decisions on both the map and text cases.

The Commission believes that the amendments contained herein are in the best interests of the District of Columbia and are consistent with the intent and purposes of the Zoning Regulations and the Zoning Act. The Commission therefore hereby orders adoption of those amendments to the Zoning Map specified in the document entitled "Diplomatic Zone Mapping," dated September 14, 1978, a copy of which is attached hereto and made a part hereof.

Vote of the Commission taken at the public meeting held on July 24, 1978: 3-0 (John G. Parsons, George M. White and Walter B. Lewis to approve the changes, Theodore F. Mariani and Ruby B. McZier not present, not voting).

WALTER B. LEWIS
Chairman

STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on September 14, 1978 by a vote of 4-0 (Theodore F. Mariani, John G. Parsons and Walter B. Lewis to adopt, Ruby B. McZier to adopt by proxy, George M. White, not present, not voting).

In accordance with Section 3.62 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, these amendments to the Zoning Map are effective on ______________

DIPLOMATIC ZONE MAPPING

September 14, 1978

Designation of the Diplomatic (D) Districts in combination with other Districts shall be as shown on the attached maps and described as follows:

MAP CHANGE INSTRUCTIONS

Square 2577 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 2669 ---- Lot 815 fronting on Columbia Road; lots 28 through 34 fronting on the north side of Harvard Street ; lots 22 through 27 fronting on the south side of Harvard Street; lots 818 through 824 fronting on the north side of Girard Street; and lots 1, 2, 18, 19, 800, 807 and 817 fronting on 15th Street, shall become D/R-5-B.

Square 2666 ---- That portion of the square bounded by Fuller Street, 15th Street, Euclid Street and the public alley running paralled to 15th Street, including lots 196, 197 and 198 shall become D/R-5-B.

Square 2663 ---- That portion of the square between 15th Street and the public alley running parallel to 15th Street shall become D/R-5-B.

Square 2662 ---- That portion of the square between 15th Street and the public alley running parallel to 15th Street, including all lots fronting on 15th

Street and lots 179, 180, 181, 185, 186, 187 and 864 fronting on Chapin Street, shall become D/R-5-B.

Square 2578 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 2575 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 2571 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 2568 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 1939 ---- Lot 32 fronting on 35th Street; all the lots fronting on Massachusetts Avenue; and lots 19, 20,and 810 fronting on 34th Street shall become D/R-1-B.

Square 2122 ---- Lots 21, 20 and 6 fronting on 34th Street and all lots fronting on Massachusetts Avenue shall become D/R-1-A.

Square 2145 ---- Lots 817, 814 and 815 fronting on 30th Street and all lots fronting on Massachusetts Avenue shall become D/R-1-A.

Square 2198 ---- Lot 809 fronting on 30th Street and Massachusetts Avenue and lot 808 fronting on Rock Creek Drive and Massachusetts Avenue shall become D/R-1-A.

Square 2147 ---- That portion of the square zoned R-5-A shall become D/R-5-A and that portion zoned R-1-A shall become D/R-1-A.

Square 2155 ---- All lots fronting on the south side of Whitehaven Street and zoned R-1-A shall become D/R-1-A.

Square 1299 ---- That portion of lots 1008 and 1011 zoned R-1-B shall become D/R-1-B.

Square 2500 ---- All lots fronting on Massachusetts Avenue and lots 841, 874 and 853 shall become D/R-3.

Square 2507 ---- The entire square shall become D/R-3.

Square 2511 ---- The entire square shall become D/R-3.

Square 2501 ---- Lots 808, 8, 9 and 10 fronting on Water Side Drive; lots 11 and 12 fronting on Massachusetts Avenue; and lots 13, 14, 15, 807 and 806 fronting on Belmont Road shall become D/R-1-B.

Square 2505 ---- Lots 22, 809, 808 and 20 fronting on Tracy Place and all lots fronting on Massachusetts Avenue and California Street shall become D/R-1-B.

Square 2506 ---- Lots 28, 29 and 30 fronting on California Street; all lots fronting on Massachusetts Avenue; and lots 41, 42 and 800 fronting on 24th Street shall become D/R-1-B.

Square 2517 ---- Lots 32, 802, 46, 37, 36, 816 and 814 fronting on "S" Street; lots 815, 813 and 808 fronting on 24th Street; lots 807, 48, 47 and 14 fronting on Massachusetts Avenue; and lots 811, 8 and 7 fronting on Decatur Place shall become D/R-1-B.

Square 2516 ---- Lots 817, 818, 22, 61, 60 and 63 fronting on Decatur Place; all lots fronting on Massachusetts Avenue; and all lots fronting on "S" Street shall become D/R-3.

Square 2512 ---- The entire square shall become D/R-3.

Square 2513 ---- The entire square shall become D/R-3.

Square 2514 ---- That portion of the square zoned R-3 shall become D/R-3 and that portion of the square zoned R-5-B shall become D/R-5-B.

Square 2515 ---- The entire square shall become D/R-3.

Square 2533 ---- The entire square shall become D/R-3.

Square 65 ---- The entire square shall become D/R-5-B.

Square 66 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 92 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 93 ---- That portion of the square zoned R-5-B shall become D/R-5-B.

Square 2527 ---- Lots 46, 86 and 87 fronting on Wyoming Avenue shall become D/R-1-B.

Square 2202 ---- The entire square shall become D/C-2-A.

Square 2203 ---- The entire square shall become D/C-2-A.

Square 150 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 151 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 175 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 176 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 189 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 190 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 204 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 205 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 154 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 155 ---- Those portions of the square zoned C-2-A shall become D/C-2-A.

Square 178 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 179 ---- Those portions of the square zoned C-2-A shall become D/C-2-A.

Square 180 ---- Those portions of the square zoned C-2-A shall become D/C-2-A.

Square 95 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 48 ---- The entire square shall become D/C-2-A.

Square 68 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1194 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1195 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1196 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1197 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1198 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1199 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1200 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1202 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1203 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1204 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1205 ---- Those portions of the square zoned C-2-A shall become D/C-2-A.

Square 1206 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1207 ---- The entire square shall become D/C-2-A.

Square 1208 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1209 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1210 and 1212 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1214 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1218 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1231 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1232 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1243 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1244 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1255 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1256 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1271 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1272 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1279 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1280 ---- Those portions of the square zoned C-2-A shall become D/C-2-A.

Square 1290 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1295 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1298 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 2154 ---- That portion of the square zoned C-2-A shall become D/C-2-A.

Square 1299 ---- Those portions of the square zoned C-2-A shall become D/C-2-A.

Square 1300 ---- Those portions of the square zoned C-2-A shall become D/C-2-A.

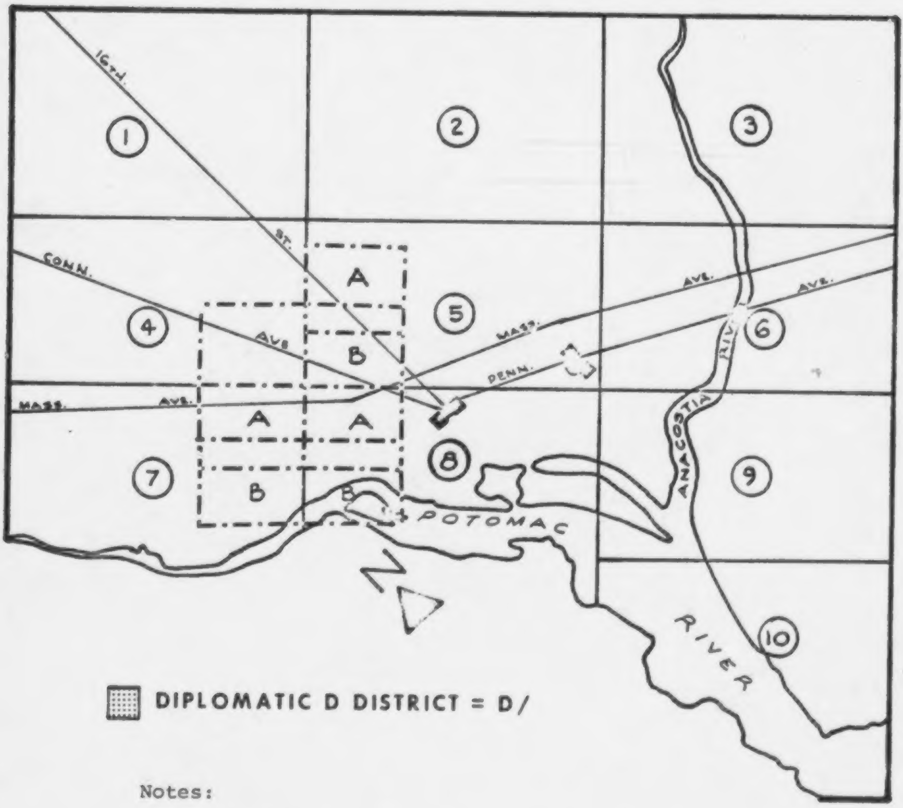
Note that all references to squares and lots are from the Baist Atlas, Volumes 1 and 3 on record in the Office of the Zoning Secretariat.

Z. C. Case No. 77-46

MIXED USE DIPLOMATIC (D) DISTRICT

MAPS

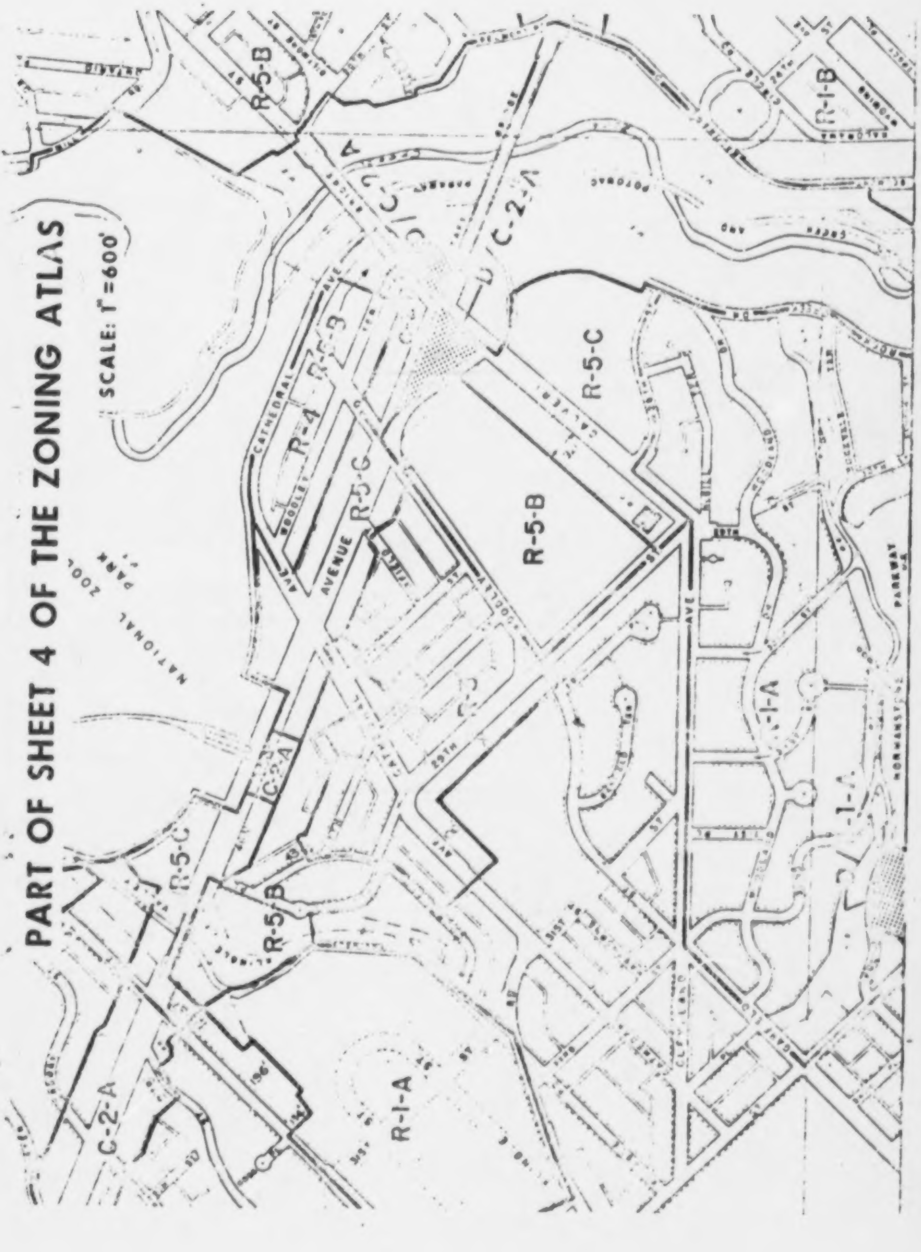
ZONING ATLAS INDEX MAP


16TH ST.
CONN. AVE.
MASS. AVE.
PENN. AVE.
① ② ③ ④ ⑤ ⑥ ⑦ ⑧ ⑨ ⑩
A
B
POTOMAC
ANACOSTIA RIV
RIVER
N
▦ DIPLOMATIC D DISTRICT = D/

Notes:

The shading on these maps is provided for information only.

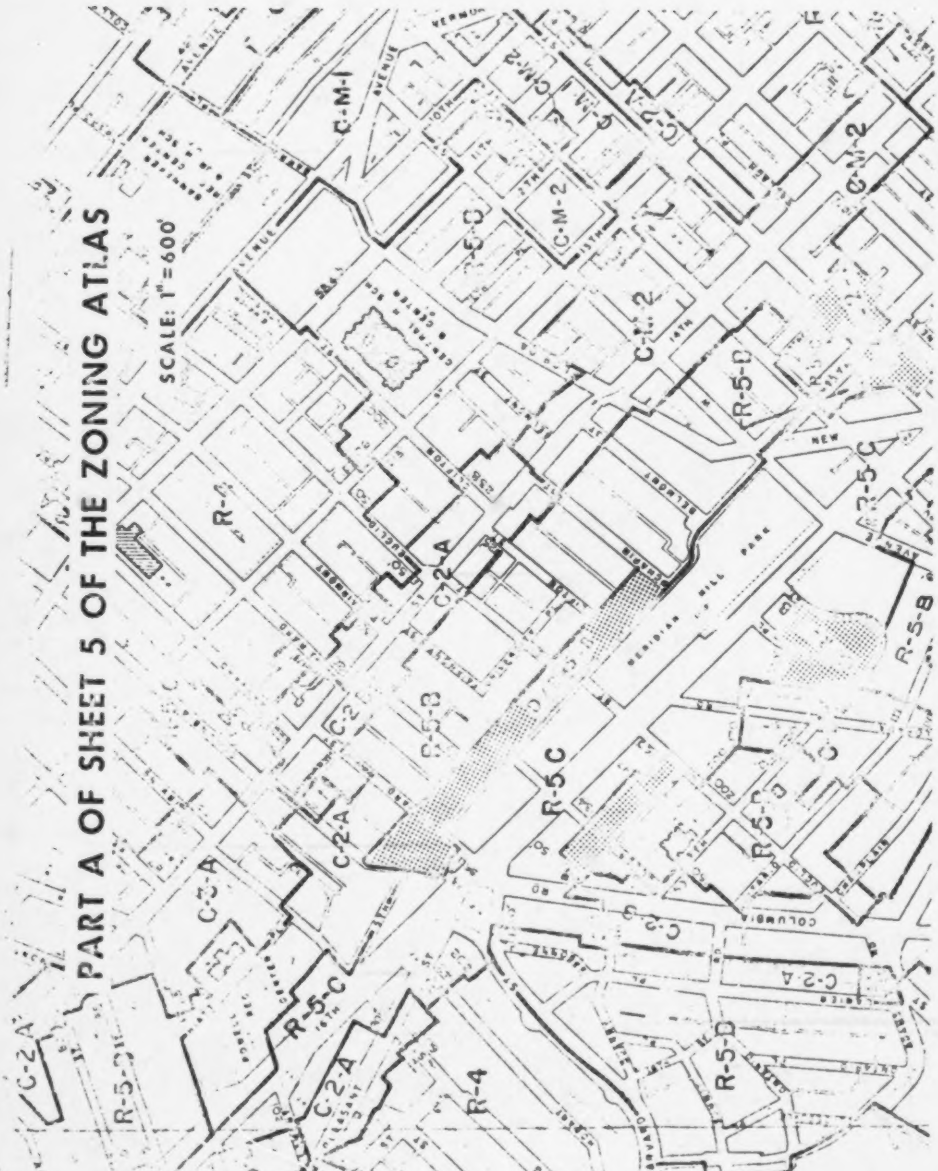
These maps can be pasted into the Zoning Atlas to update same.



PART OF SHEET 4 OF THE ZONING ATLAS

SCALE: 1"=600'

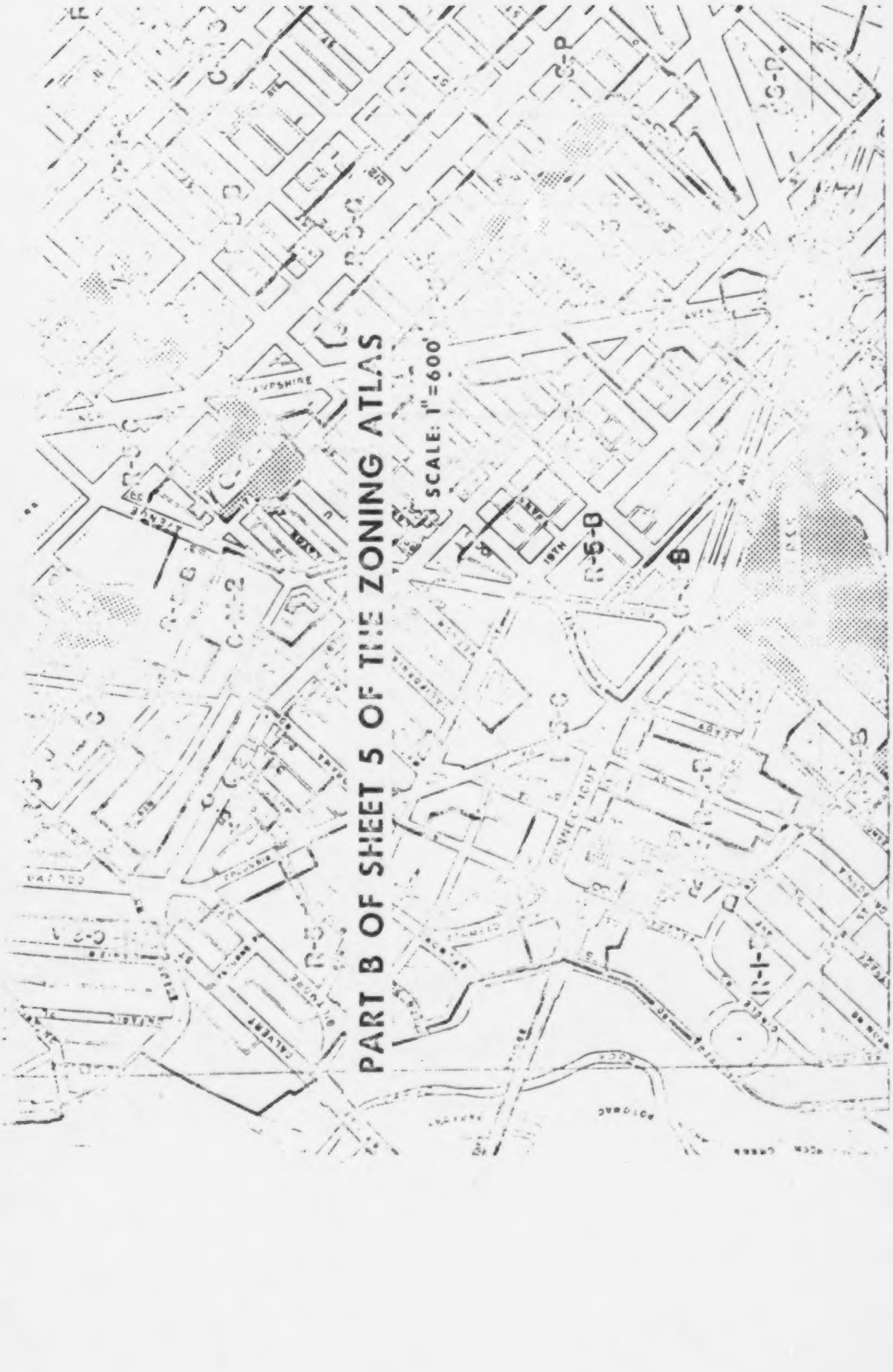
R-5-B
C-2-A
R-1-B
R-5-C
R-5-B
R-4
R-5-C
R-5-B
R-5-C
C-2-A
R-5-B
C-2-A
R-1-A
R-1-A
R-1-A
NATIONAL ZOOL. PARK
CATHEDRAL AVE
WOODLEY
AVENUE
CALVERT
29TH
CLEVELAND
AVE
PARKWAY
NORMANSTONE



PART A OF SHEET 5 OF THE ZONING ATLAS

SCALE: 1" = 600'

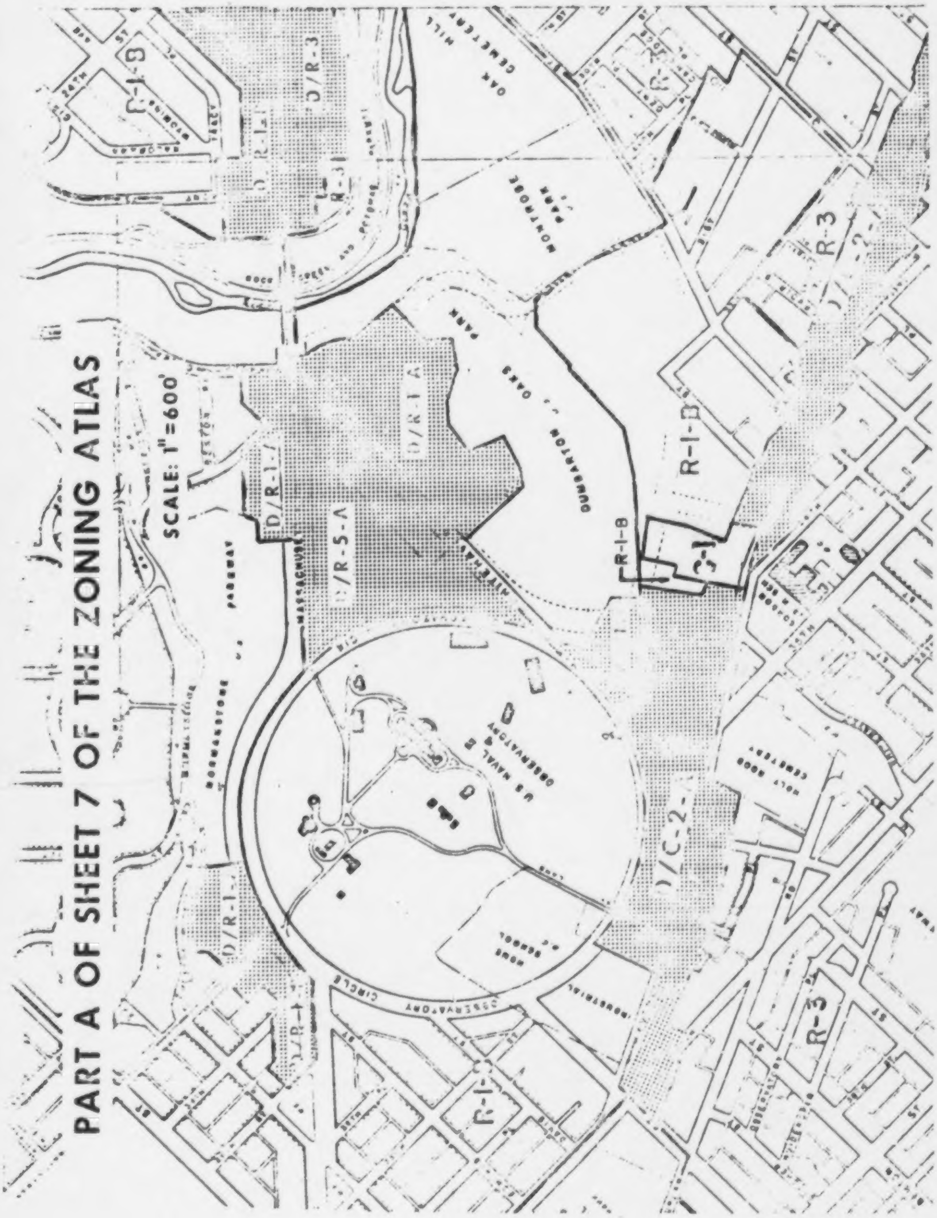
C-M-1
C-M-2
C-M-2
C-M-2
R-5-C
C-M-2
R-5-D
R-5-C
R-4
C-2-A
R-5-B
MERIDIAN HILL PARK
BELMONT
NEW
R-5-B
C-2
R-5-C
R-5-D
C-2-A
C-3-A
C-2-3
COLUMBIA
C-2-A
R-5-C
R-5-D
C-2-A
R-5-D
C-2-A
R-4
R-5
AVENUE
VERMONT
CLIFTON
FLORIDA



PART B OF SHEET 5 OF THE ZONING ATLAS

SCALE: 1"=600'

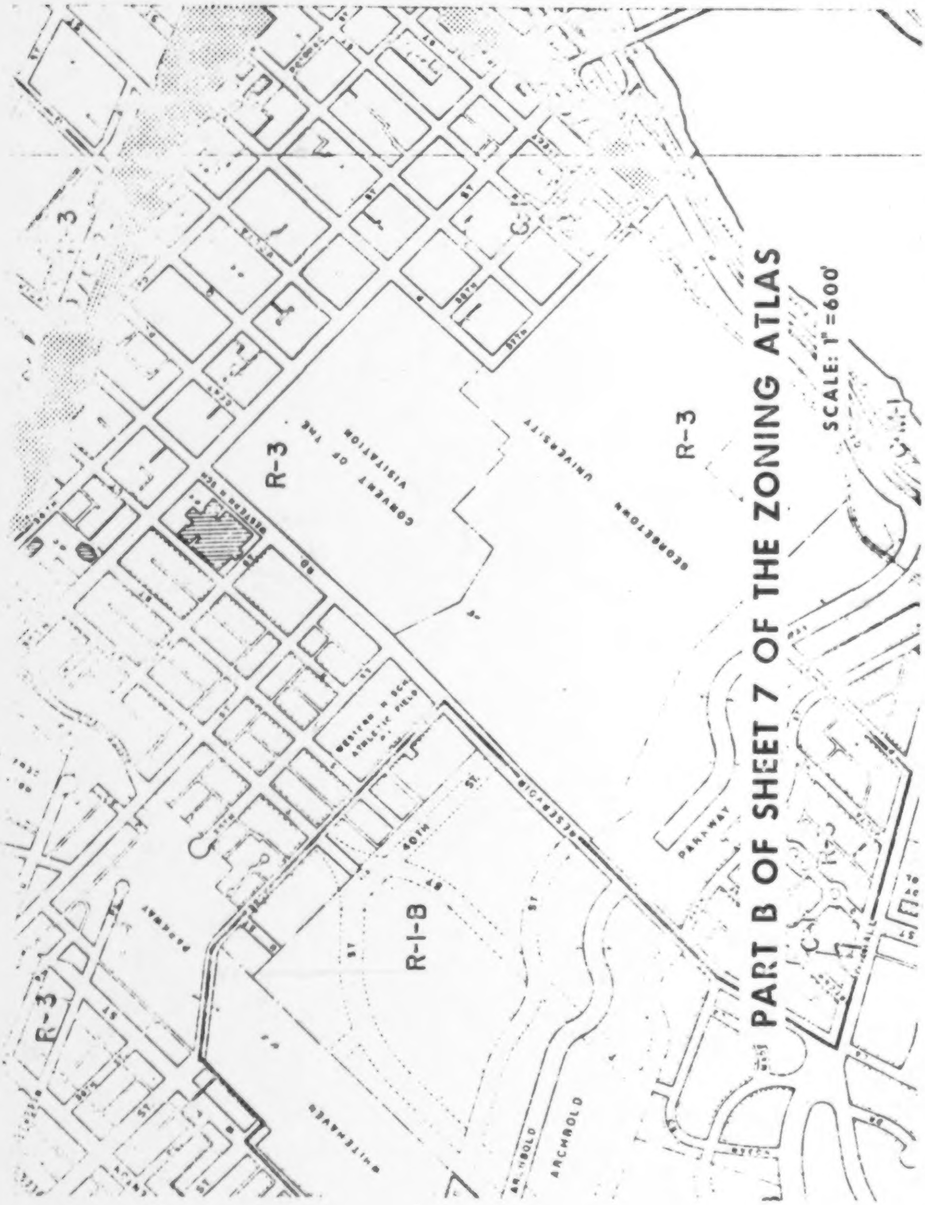
C-P
R-5-B
C-2
C-3-A
C-1
HAMPSHIRE
CALIFORNIA
CONNECTICUT
19TH
CALVERT
POTOMAC



PART A OF SHEET 7 OF THE ZONING ATLAS

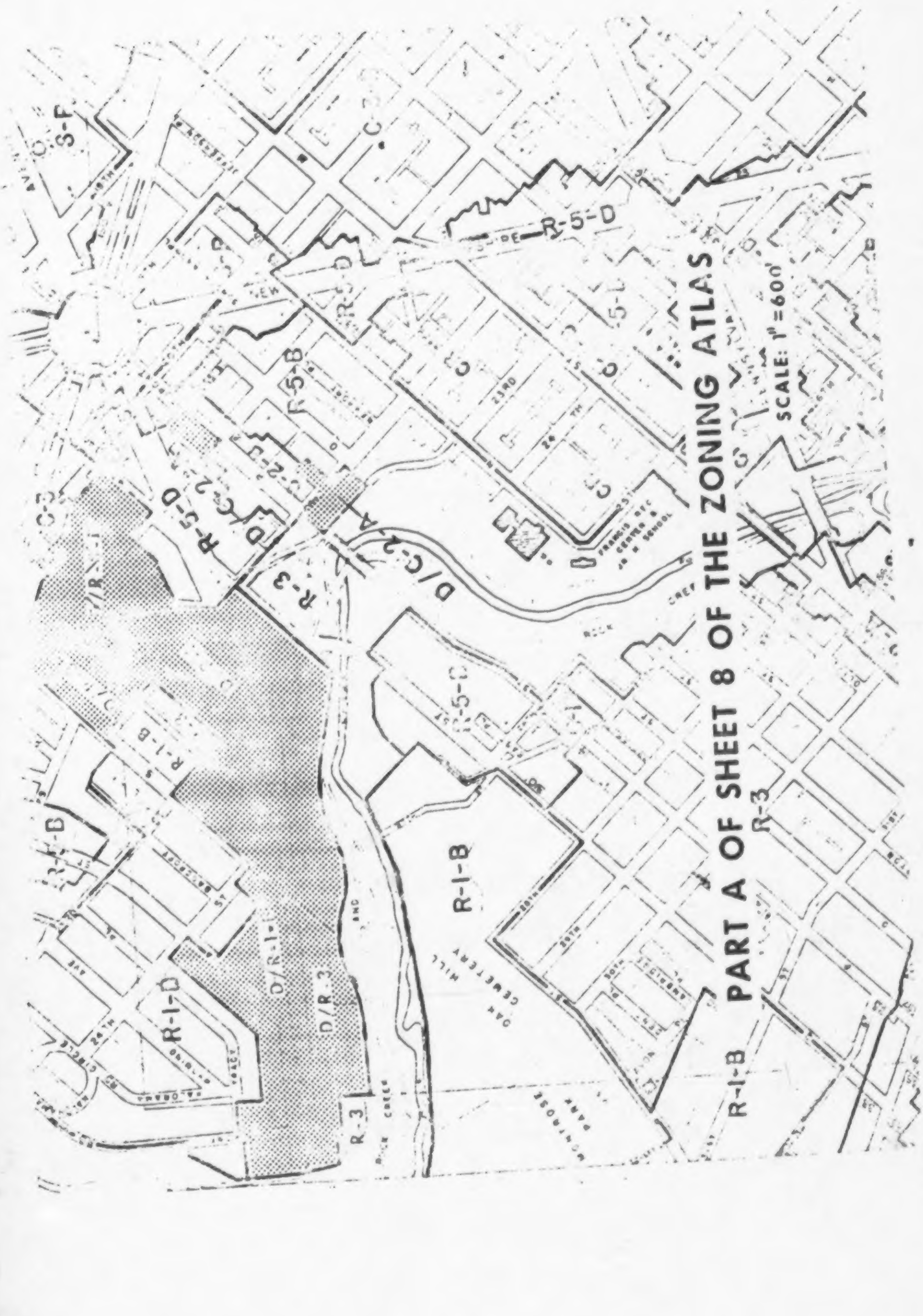
SCALE: 1"=600'

D/R-1-B
D/R-3
D/R-1-A
R-3
D/R-5-A
D/R-1-A
D/R-1-A
D/R-1-A
D/C-2-A
R-1-B
R-1-B
C-1
R-3
R-3
R-1-B
OAK HILL CEMETERY
MONTROSE PARK
DUMBARTON OAKS PARK
ROCK CREEK AND POTOMAC PARKWAY
MASSACHUSETTS
WHITEHAVEN
NORMANSTONE PARKWAY
U.S. NAVAL OBSERVATORY
OBSERVATORY CIRCLE
HOLY ROOD CEMETERY
28TH ST
29TH ST


R-3
R-3
R-3
R-3
R-1-B
CONVENT OF THE VISITATION
GEORGETOWN UNIVERSITY
WESTERN H. SCH. ATHLETIC FIELD
RESERVOIR
RD
40TH
ST.
ARCHBOLD
ARCHBOLD
WHITEHAVEN
PARKWAY
PARKWAY
C

PART B OF SHEET 7 OF THE ZONING ATLAS

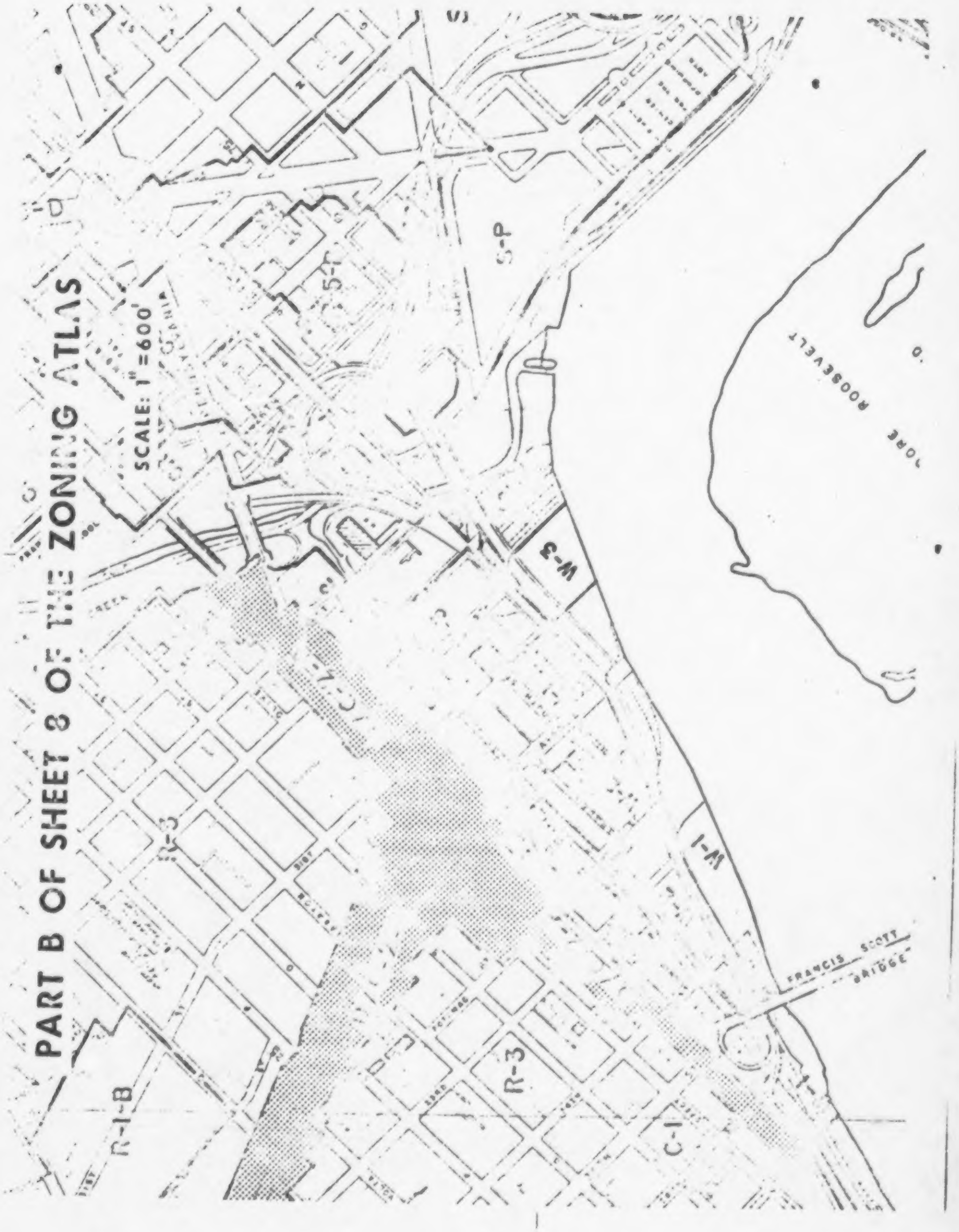
SCALE: 1" = 600'



R-5-D
C-2
R-5-B
D/C-2-A
R-3
R-5-C
R-1-B
D/R-3
D/R-1-B
R-1-D
R-3
R-1-B
R-3
ROCK CREEK
OAK HILL CEMETERY
MONTROSE PARK

PART A OF SHEET 8 OF THE ZONING ATLAS

SCALE: 1"=600'



PART B OF SHEET 8 OF THE ZONING ATLAS

SCALE: 1"=600'

R-1-B
R-3
R-3
C-1
C-2
W-1
W-3
S-P
FRANCIS SCOTT BRIDGE
ROOSEVELT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE

OFFICE OF THE CITY ADMINISTRATOR

ASSISTANT CITY ADMINISTRATOR FOR
PLANNING & DEVELOPMENT
1350 E STREET, N.W. – ROOM 409
WASHINGTON, D.C. 20004

May 4 1981

The Honorable Charles McC. Mathias, Jr.
Chairman, Senate Subcommittee on
Government Efficiency and the District
of Columbia
Committee on Governmental Affairs
Washington, D.C. 20510

Dear Senator Mathias:

Thank you for your interest in S.854, the Foreign Missions Act and your request for joint referral. In response to your recent letter to Mayor Barry in which you requested information on zoning cases involving foreign missions, chanceries, embassies and other international organizations, I am attaching background information on the specific cases as well as copies of the final decisions.

In general, the length of time involved in reaching a decision involves compliance with the requirements of the D.C. Administrative Procedures Act. The requirements for 30 days' notices, opportunity to be heard, the right to cross-examine and other requirements of the Act have contributed significantly to the length of time required to decide a case. In addition, delays caused by the applicant, the need to conduct planning analysis related to such issues as traffic impacts and other relevant factors add some time to the process. I would note, however, that although certain modifications can be made to reduce somewhat the length of time to reach a final disposition, the process allows the citizens of the District of Columbia as well as their prospective neighbors, the representatives of foreign governments, an opportunity to resolve community impact issues such as parking and location which, I feel, provides the opportunity for continuing amicable relationships, which may not be afforded under a more truncated process.

In addition, I am forwarding for your information an analysis of the length of time that the National Capital Planning Commission (NCPC) has taken to complete its various reviews of chancery applications at the International Center as well as a comparative analysis of the two types of review.

While I am sensitive to the impacts of the length of time needed to reach final decisions may have on our nation's relationships with foreign governments, I am sure that you share my concern that any revisions to current procedures regarding this matter be considered with great sensitivity to the needs of the citizens of the District of Columbia. Thank you again for your concern and if I can be of further assistance to you in this regard, please do not hesitate to contact me.

Sincerely,

James O. Gibson
Assistant City Administrator
for Planning and Development

Enclosures

NCPC Review of Chancery Plans: A Comparative Analysis

The NCPC process of reviewing chancery plans for the International Center Chancery Enclave, Van Ness Street and Reno Road, N.W., is not fully comparable to the Zoning Commission/BZA process. The NCPC respective reviews -- Informational/Concept (optional), Preliminary Site and Building plans, and Final Site and Building Plans -- are discreet reviews. Each has been accomplished usually within a one-to-two month period. The time span between submissions for Preliminary and Final Site and Building Plans has varied from 2 1/2 months to over one year, depending on the schedule and priority of a government's building plans. The length of elasped time for NCPC review and approval of chancery plans, therefore, is largely up to the applicant government.

The NCPC process is also not fully comparable for other reasons:

- There is no public hearing involving adversarial proceedings. There is only the regular NCPC meeting at which citizens are given a limited length of time to speak -- usually less than 15-20 minutes each. There is no requirement in the proposed legislation that hearings on chancery applications be held.

- Reviews are focused on the Federal interest. There is little consideration given to neighborhood impacts presently. Under the legislation (Section 206(b) (7) and (c) (2)), NCPC must give substantial weight to the municipal interest. This in all likelihood will add considerable time to the length of the proposed process.

- Historic considerations are not of major import at the International Center. The areas of primary interest for the location of Chanceries are Massachusetts Avenue, Sheridan-Kaloroma Area, and Dupont Circle Area, all of which are Historic districts. The NCPC 106 Historic Review process should, therefore, be involved as part of the chancery review; this would add from approximately six months to as much as one year or more to the process.

- NCPC reviews of chancery applications at the International Center do not require individual environmental impact statements as one was prepared for the Center as a whole in 1976. NCPC determinations on chanceries outside the Center, under the proposed legislation, in the District's opinion, is a "major Federal action" as defined by NEPA and should require the full environmental impact statement process as part of the review. This would add another four to twelve months to the process.

  Zoning Commission and BZA actions do not fall under the purview of NEPA. Consequently, they do not require environmental impact statements from applicants as part of their review process and actions.

CHANCERY CASES

Board of Zoning Adjustment

Case Number	Country	Filed	Decided	Elapsed Time	Decision
12268	New Zealand	8/13/76	8/18/77	370 days	Granted
12750	Algeria	7/26/78	3/26/79	243 days	Dismissed
12822	Bangladesh	10/12/78	6/22/79	253 days	Denied
12826	Saudi Arabia	10/24/78	11/9/79	341 days	Granted
13166	Italy	12/18/79	5/27/80	160 days	Granted
13313	Venezuela (Embassy)	6/4/80	10/6/80	124 days	Granted
13361	Indonesia	8/8/80	2/5/81	183 days	Granted

Average Elapsed Time = 228 days

Zoning Commission

Case Number	Country	Filed	Decided	Elapsed Time	Decision
77-17P	Italy	6/6/77	2/9/78	248 days	Granted
77-31	Bangladesh	8/29/77	Withdrawn		
77-40P	Saudi Arabia	11/16/77	Moot		
78/20/ 76-28F	France	8/25/78	2/8/79	167 days	Granted
78-29	Iran	11/17/78	9/13/79	301 days	Denied
78-30/ 77-17F	Italy	12/8/78	6/14/79	188 days	Granted

Average Elapsed Time = 226 days

NCPC REVIEW OF CHANCERY PLANS AT THE INTERNATIONAL CENTER

Country	Review Request	Info/ Concept*	Review Request	Preliminary Site & Bldg Plan	Request Review	Final Site & Bldg Plan	Elapsed Time
Ghana	12/8/75	1/8/76	3/9/76	combined		4/18/76	123 days
Israel	-	-	10/11/78	11/2/78	3/14/79	4/15/79	177 days
Yemen	-	-	12/20/78	1/10/79 Conditional	6/27/79	9/13/79	268 days
Bahrein	-	-	6/5/79	6/28/79 Conditional	9/12/79	10/4/79	122 days
Kuwait	-	-	9/12/79	10/11/79 Conditional	8/12/79	10/8/80	393 days
Jordan	-	-	10/10/79	12/13/79			

* Not a requirement. It is optional.

Average Elapsed Time = 217 days

Before the Board of Zoning Adjustment, D. C.

Application No. 12131, of the Government of Bolivia, pursuant to Sub-section 8207.2 of the Zoning Regulations, for further processing of a Planned Unit Development under Sub-section 7501.4 to permit the construction of an addition to an existing building to be used as a Chancery in the R-5-A District at the premises 3012 Massachusetts Avenue, N. W., (Square 2147, Lot 821).

HEARING DATE: April 21, 1976
DECISION DATE: April 21, 1976 (from the Bench)

FINDINGS OF FACT:

1. The subject property is located in the R-5-A District and is presently used by the Bolivian Embassy.

2. The Government of Bolivia purchased the property involved in this application some years ago and has used the existing structure as its Embassy. It has been part of long-range planning by the Government of Bolivia to locate its new chancery upon the land involved in this application.

3. There will be approximately twenty (20) persons located in the chancery. At present, they are located in an office building at 1625 Massachusetts Avenue, N. W. and it is intended that the Chancery and Embassy be located at one location.

4. The proposed use will be that of a Chancery as that term is defined in the Act of October 13, 1964 and as provided in the Zoning Regulations.

5. The Chancery observes normal office hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. The Chancery is normally closed Saturday, Sunday and holidays.

6. For a building of this size the Zoning Regulations specify 16 parking spaces. The plans herein provide for 16 parking spaces.

7. The Chancery has been designed to be compatible with the existing buildings adjacent to the site. The height does not exceed two (2) stories. The whole of the exterior of the Chancery will be faced with stucco to relate to the color and texture of the adjoining building.

8. The Bolivian Ambassador's residence is the nearest building to the proposed Chancery. The new Chancery will fully respect the existing character of the neighborhood.

9. On January 15,1968, the Zoning Commission adopted Order No. 67-51 approving the Article 75 application for a Planned Unit Development for a chancery enclave for the Governments of Bolivia, Brazil, Great Britain and New Zealand. This Order predated the current Article 75 Regulation which was adopted July 1, 1969. Under the Regulations in effect prior to July 1, 1969, no zoning change to the R-5-C District was required for a Chancery to be constructed as a Planned Unit development. The Board, therefore, has jurisdiction to further process this application under Section 7501.

10. On November 4, 1968, this Board in Application No. 9768, involving the application of the Government of Brazil, approved the first construction under Zoning Commission Order No. 67-51. The Board in Order No. 9768 provided the following:

1. This Order shall not become effective until covenants are recorded by Brazil, Britain, New Zealand and Bolivia covering development of the entire project as approved by the Zoning Commission January 15, 1968 (Z.C. 67-51).

2. All development approved by the Zoning Commission shall be completed by January 1, 1979, unless such time is extended by the Zoning Commission upon receipt of the proper application on behalf of the effected Government in accordance with Sub-section 7501.8.

3. The Board, under the terms of this Order, shall retain jurisdiction to modify this approval as provided by paragraph 7501.79 of the Zoning Regulations.

11, The covenants (required under Article 75) directed by this Board to be prepared have been recorded in the Office of the Recorder of Deeds among the land records of the District of Columbia. The covenant of the Government of Bolivia was recorded April 7, 1969 in Liber 12981, at Folio 51.

12. In compliance with Paragraph 7501.41 of the Zoning Regulations, the applicant has submitted the following:

a. Drawings G-1, A-1, A-2 show the floor plans for the building. Drawing A-2 shows the four Chancery elevations.

b. Drawing G-1 shows the roof plan.

c. Drawing G-1 shows the final grade and drainage plan for the development.

d. Drawing G-1 shows the planting and landscape plan for the site.

e. Drawing G-1 shows the finished site plan with the exact location of new Chancery.

13. A detailed inspection of the subject site and surrounding area show to the north the site abuts the British Embassy; to the south is the Brazilian Embassy; to the east is Massachusetts Avenue across which is the Embassy and Chancery of South Africa; to the west along Whitehaven Street, well removed and well screened from the New Chancery building is the former Renchard residence, now owned by the Brazilian Government. Other uses located in the square include the chanceries for Great Britain, Brazil and New Zealand.

14. The proposed Chancery building will be completely in harmony with the character of the surrounding area. The new Chancery at the front entrance is approximately 22 feet in height, occupies only 9% of the site, is situated to the rear of the residence, and designed as to scale and material to blend and harmonize with the surrounding area.

15. No adjoining or neighboring property will, in any way, be adversely affected by the granting of the relief requested, and there was no opposition to the application.

16. The Board received the staff report from the Municipal Planning Office dated April 20, 1976. Pursuant to authority granted by Section 1.3 of the supplemental Rules of Practice and Procedure, the Chairman waived Section 3.41 of the Rules to receive the report of the Municipal Planning Office even though it did not meet the five day requirement. The MPO found that applicant's plans are in accord with the elements and guidelines set forth in the Zoning Commission's Order in Case No. 67-51 dated January 15, 1968, and recommended approval subject to the widening of a driveway from ten feet to 14 feet.

CONCLUSIONS OF LAW AND OPINION:

The Board's review of the detailed plans submitted reveals that they are, substantially in accord with the submission approved by the Zoning Commission in its Order dated January 15, 1968 (Z.C. File No. 76-51). It is thus found to be in harmony with the objectives of Section 7501 of the Zoning Regulations and is in accordance with the intent of the Zoning Commission for this development. The landscaping, planting, screening and drainage plans were found to be satisfactory. It is therefore ordered that the above application for further processing be GRANTED subject to the following conditions:

1. That all development approved by the Zoning Commission shall be completed by January 1, 1979, unless such time is extended by the Zoning Commission upon reeipt of a proper application on behalf of the effected government in accordance with Paragraph 7501.34.

2. That the Board, under the terms of this Order, shall retain jurisdiction to modify this approval as provided by paragraph 7501.49 of the Zoning Regulations.

3. The order of the Board shall be valid for a period of 18 months. within such period the plans shall be filed for the purpose of securing a building permit.

VOTE: 4-0(Martin Klauber, Leonard McCants, William S. Harps and McIntosh to GRANT, Lilla Burt Cummings not present not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:
STEVEN E. SHER
Secretary to the Board

FINAL DATE OF ORDER: APR 29 1976

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12268, of the Government of New Zealand, pursuant to Article 75, Section 7501.4 of the Zoning Regulations, for further processing of a Planned Unit Development for the erection of a chancery enclave in the R-5-A District at the premises No. 19 Observatory Circle, N. W., (Square 2147, Lot 57).

HEARING DATE: February 16, 1977

DECISION DATE: February 16, 1977 (from the bench)

FINDINGS OF FACT:

1. The subject property is located in the R-5-A District and is presently vacant and wooded.

2. The Government of New Zealand purchased the property involved in this application some years ago. It has maintained its chancery at No. 19 Observatory Circle, N. W. since December 31, 1942 and the residence of the Ambassador at No. 27 Observatory Circle since October 3, 1941. Both the existing chancery and the Ambassador's residence adjoin the subject site. It has been part of long-range planning by the Government of New Zealand to locate its new chancery upon the land involved in this application.

3. There will be approximately eighty (80) persons housed in the chancery. At present, they are located at three (3) locations and it is intended that they all be consolidated at one location.

4. The proposed use will be that of a chancery as that term is defined in the Act of October 13, 1964 and as provided in the Zoning Regulations.

5. The chancery observes normal office hours of 9:15 A.M. to 5:30 P.M., Monday thru Friday. The chancery is normally closed Saturday, Sunday and holidays.

6. For a building of this size the Zoning Regulations specify thirty-three (33) parking spaces. The site plans as amended at the public hearing provide for 58 parking spaces and are within five percent (5%) of the 62 parking spaces specified in the Zoning Commission's final order.

7. In conformity with the Zoning Commission's Order, no vehicular access to the New Zealand Chancery will be provided from Whitehaven Street. All access will be from Observatory Circle.

8. The chancery has been designed to be compatible with the existing buildings adjacent to the site. The height does not exceed four (4) stories and most of the building is only 2½ stories above the existing topography. The whole exterior of the chancery will be faced with brick to relate to the color and texture of the adjoining brick buildings.

9. The New Zealand Ambassador's residence is the nearest building to the proposed chancery. The new chancery will fully respect the existing character of the neighborhood.

10. Compliance under Paragraph 7501.41 of the Zoning Regulations is as follows:

a. Drawings two thru five show the floor plans for the building. Drawings nine and ten show the architectural elevations.

b. Drawing six shows the roof plan. Drawings nine and ten show the architectural elevation of the roof structure.

c. Drawing one shows the final grade and drainage plan for the development.

d. Drawing one shows the planning and landscape plans for the site.

e. Drawing A shows the finished site plan with lot areas and the required access plan.

11. A detailed inspection of the subject site and surrounding area show to the north the site abuts the U.S. Naval Observatory; to the south is the Dunbarton Oaks Park; to the east along Observatory Lane is the residence of the Ambassador of New Zealand and the existing chancery; to the east along Whitehaven Street, well removed and well screened from the new chancery building are several residences. Other uses located in the square include the chancery for the Government of Great Britain, Brazil and Bolivia.

12. The proposed chancery building will be completely in harmony with the character of the surrounding area. The structure will be 37 feet and six inches in height, and occupies only 18% of the site, is situated in a park-like

setting, designed as to scale and material to blend and harmonize with the surrounding area, and in no sense is overpowering or dominating of adjacent land uses.

13. The Municipal Planning Office by report dated February 3, 1977 and by testimony at the hearing, found the applicant's plans are in accord with the elements and guidelines set forth in the Zoning Commission's Order in Case No. 67-51 dated January 15, 1968.

14. The proposed location of the swimming pool adjoins the swimming pool located on the two neighboring properties and therefore will not interfere with the use of neighboring properties.

15. On January 15, 1968, the Zoning Commission entered Order No. 67-51 approving the Article 75 application for a chancery enclave for the Government of Bolivia, Brazil, Britian and New Zealand. This Order pre-Dated the current Article 75 Regulation which was adopted July 1, 1969. Under the Regulations in effect prior to July 1, 1969, no zoning change to the R-5-C and R-5-D Zone was required. The Board, therefore, has jurisdiction to process this application under Article 75.

16. On November 4, 1968, this Board in Appeal No. 9768, involving the application of the Government of Brazil, approved the first construction under Zoning Commission Order No. 67-51. The Board in Order No. 9768 provided under conditions the following:

1. This Order shall not become effective until covenants are recorded by Brazil, Britain, New Zealand and Bolivia covering development of the entire project as approved by the Zoning Commission, January 15, 1968 (Z.C. Order No. 67-51).

2. All development approved by the Zoning Commission shall be completed by January 1, 1979, unless such time is extended by the Zoning Commission upon receipt of the proper application on behalf of the effected Government in accordance with Sub-section 7501.8.

3. The Board, under the terms of this Order, shall retain jurisdiction to modify this approval as provided by Paragraph 7501.79 of the Zoning Regulations.

The covenants (required under Article 75) directed by this Board to be prepared have been recorded in the Office of Recorder of Deeds among the land records of the District of

Columbia. The covenant of the Government of New Zealand was recorded April 7, 1969 in Liber 12981, at Folio 73.

17. Applicant seeks no relief under Section 7501.46 relating to roof structures.

CONCLUSIONS OF LAW AND OPINION:

The Board's review of the detailed plans submitted reveals that they are, with the exception ofminor changes, substantially in accord with the submission approved by the Zoning Commission in its January 15th Order of Approval (Z.C. File No. 67-51). It is thus found to be in harmony with the objectives of Section 7501 of the Zoning Regulations and is in accordance with the intent of the Zoning Commission for this development. It is therefore ordered that the application be GRANTED subject to the following conditions:

1. All development approved by the Zoning Commission shall be completed by January 1, 1979, unless such time is extended by the Zoning Commission upon receipt of the proper application on behalf of the effected government.

2. The Board, under the terms of this Order, shall retain jurisdiction to modify this approval as provided by Paragraph 7501.49 of the Zoning Regulations.

3. Should any government at some future time wish to engage in additional Embassy or Chancery construction, it will be necessary to seek a modification of the Article 75 approval.

4. No vehicular access to the New Zealand Chancery be provided from Whitehaven Street.

5. The chancery shall be constructed in accordance with plans approved by the Municipal Planning Office on August 12, 1977, those plans marked as Exhibit No. P.H.-1.

6. The order of the Board authorizing this construction shall be valid for a period of 18 months. Within such period, the plans therefore shall be filed for the purpose of securing a building permit

VOTE: 3-0 (Leonard L. McCants, Esq., William F. McIntosh, and Richard L. Stanton to grant).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 18 AUG 1977

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12750 of Michael Deutch, et al., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-paragraph 3101.410 to expand the existing Chancery of the Government of Algeria into an adjacent building in the R-5-C District at the premises 2116 Kalorama Road, N.W., (Square 2527, Lot 47).

HEARING DATE: September 20, 1978
DECISION DATE: February 28, 1979

ORDER

This application was scheduled for a decision at the Board's Public Meeting of October 4, 1978. At the request of the State Department, as a courtesy to the State Department, the Board postponed a decision on the case.

On December 5, 1978 the Board received a letter from the owner of the subject property to Randall H. Hagner & Co., dated November 30, 1978, marked as exhibit 48 of the record, that the contract of sale was now void since the BZA had not granted approval of the application by November 30, 1978, the time period specified in the said contract.

By letter of January 26, 1979 the staff requested counsel for the applicant, in view of the aforementioned letter, to advise the BZA within ten days if it was his intention to withdraw the application. No reply has been received.

Upon consideration of the foregoing facts, it is therefore ORDERED that the application is DISMISSED WITHOUT PREJUDICE.

VOTE: 4-0 (Charles R. Norris, Chloethiel Woodard Smith, William F. McIntosh and Leonard L. McCants to dismiss, Theodore F. Mariani not voting).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 26 MAR 1979

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12822 of the Peoples' Republic of Bangladesh, pursuant to Section 4603 of the Zoning Regulations, for permission to use the premises as a chancery in the D/R-1-B District at the premises 2501 Massachusetts Avenue, N.W., (Square 2505, Lot 9).

HEARING DATE: December 6, 1978
DECISION DATE: February 28, 1979

FINDINGS OF FACT:

1. This application was originally advertised as a special exception under Sub-section 8207.2 of the Zoning Regulations. By corrected notice, dated November 21, 1978, all parties were advised that, pursuant to the Zoning Regulations adopted by the Zoning Commission in Order No. 236, the application will not be considered as a special exception but will be governed by Section 4603 of the Zoning Regulations.

2. The subject property is located in the northeast quadrant of the intersection of Massachusetts Avenue and California Streets, N.W. It is known as 2501 Massachusetts Avenue and is in a D/R-1-B District.

3. The subject lot is approximately 8,744 square feet in area and is improved with a three story limestone and stucco building with an area of approximately 8,263 square feet. To the rear of the building is an enclosed patio and a garden. The west side of the building, contains an enclosed garage for two cars. The building was constructed prior to May 12, 1958, the effective date of the current Zoning Regulations.

4. The building is set back approximately forty feet from the curb line of Massachusetts Avenue and has a semicircular driveway. The lot is wedge-shaped.

5. The subject property is within the Massachusetts Avenue Historic District.

6. The subject property is owned by the Peoples' Republic of Bangladesh and is used by its Ambassador as a residence. The interior [illegible] sitting and [illegible]

7. The applicant proposes to relocate its Chancery from 3421 Massachusetts Avenue, N.W. to the subject building. The applicant proposes to use the first and second floor of the subject property as a chancery and the third floor to be designed for residential and representational purposes for official visitors. The Embassy of the Peoples' Republic of Bangladesh is located presently at No. 4 Highboro Court, Bethesda, Maryland.

8. The applicant proposes to locate on the subject site an ambassador, seven officers, eighteen employees, nine automobiles, the occupants of three "residential units" on the third floor and visitors. The chancery's business operations are from 9:30 a.m. to 5:30 p.m.

9. In the subject square 2505, bounded by Massachusetts Avenue, California Street, 24th Street, Tracy Place and Belmont Road there are thirty four structures. Twenty eight are used as residences and six are used as chanceries.

10. The application is brought under Section 4603 of the Zoning Regulations, which provides in pertinent part as follows:

> 4603.1 In areas mapped D, R-5-C, or SP, a chancery is a permitted use, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed Chancery is not incompatible with the present and proposed development of the neighborhood.
>
> 4603.2 In determining that the proposed chancery is not incompatible with the present and proposed development of the neighborhood, the Board of Zoning Adjustment must find that:
>
> 4603.21 The architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood.
>
> 4603.22 The height of the building does not exceed the maximum permitted in the applicable single or combined District in which it is located.
>
> 4603.23 The percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable single or combined District in which it is located.

4603.24 The maximum FAR does not exceed the FAR prescribed for the applicable single District or the combined Districts in which it is located or an FAR of 1.5, whichever is greater.

4603.25 Except for Chanceries located in an R-5-C or R-5-D District, off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use.

4603.28 The use will not create dangerous or other objectionable traffic conditions

11. The height of the subject building is thirty five feet. It does not exceed the maximum height of forty feet which is permitted in the R-1-B District, and thus in the combined subject D/R-1-B District, as specified in Sub-section 3201.1 and Paragraph 4603.22.

12. The lot occupancy of the subject building,including the building in the rear which the applicant recently enclosed, is approximately forty-five percent and exceeds the maximum of forty percent permitted for the subject combined district, as specified in Sub-section 3303.1 and 4603.23 of the Zoning Regulations. At the Public Hearing the applicant requested to amend the application and now seeks a variance from the lot occupancy requirements of the Zoning Regulations. However, the applicant presented no evidence or testimony to support the granting of such a variance.

13. The east side yard is 11.7 feet wide. The west side yard is 11.69 feet wide at the front of the building and narrows down to a width of approximately one foot to the rear of the building. Sub-section 3305.1 of the Zoning Regulations requires a minimum width of eight feet for each side yard. The subject property was constructed prior to the current Zoning Regulations and from the aspect of the west side yard is a non-conforming structure. According to the architect's plans, Exhibit 112, the court requirements of Sub-paragraph 4603.23 are met.

14. The floor area ratio is 1.07 and does not exceed the maximum of 1.5 as permitted by Paragraph 4603.25 of the Zoning Regulations.

15. The proposed nine parking spaces comply with the requirements of Sub-paragraph 4603.25 of the Zoning Regulations. The computation of nine spaces is confirmed by the Office of Planning and Development and the Department of Transportation reports.

16. There will be no external alterations to the [illegible] building. The architectural design will remain as is [illegible] was originally designed.

17. The applicant's traffic expert witness testified that the proposed relocation of the applicant's chancery from 3421 Massachusetts Avenue, N.W. to the subject site would constitute a trade-off and the relocation would have no adverse impact on traffic operations. There would be no interference with through traffic on Massachusetts Avenue nor would there be any significant increase in traffic on California Street. He also testified that adequate parking space would be provided on-site to meet peak parking requirements.

The Department of Transportation's report, hereinafter discussed under Finding of Fact No. 26, stated that any additional traffic generated by the relocation of the chancery is proportionately insignificant and will not cause a measurable change in conditions.

The Board finds that the proposed use of the subject property will not create dangerous or other objectionable traffic conditions.

18. The applicant has submitted two parking plans to meet the requirements of Sub-paragraph 4603.25 of the Zoning Regulations. The first plan was to provide all parking spaces in the front of the building. Two spaces would be provided in the garage on the west side of the subject building. Seven spaces would have been marked off in what constitutes public space. Under the Zoning Regulations off-street parking requirements cannot be met through the use of public space.

Under the second proposed parking plan, the applicant would provide six parking spaces in the rear of the subject building, one in the circular driveway in front of the building and two in the aforementioned garage. As to the six spaces in the rear the applicant would tear out the rear garden, black top the garden area and provide a driveway in the east side yard of the building which would be connected to the curb cut on California Street that leads to the circular driveway. Through the use of screening, planting and an overhead trellis the applicant suggests that the six parking spaces would create no adverse impact on the adjoining property owners.

19. The Office of Planning and Development in its report, hereinafter discussed under Finding of Fact No. 25, recommended that the applicant consider underground parking. The applicant rejected this recommendation since it stated that such a plan would cost approximately $150,000 and is accordingly economically prohibitive.

20. All six parking spaces in the rear fit within the property itself but they are not independently accessible. The applicant would provide valet parking so that there would always be one persons available to maneuver the cars.

21. Sub-section 7206.7 of the Zoning Regulations provides that driveways which provide accessibility to parking spaces accessory to any structure other than a one family dwelling or flat shall be not less than fourteen feet in width and have a maximum grade of not more than twelve percent with a vertical transition at intersections. The proposed driveway would be 11.7 feet wide. At the Public Hearing the applicant requested a variance from the Zoning Regulations as to the width of the driveway. However, the applicant presented no evidence or testimony to support the granting of such a variance.

22. To the east of the subject property on California Street, and to west of the property, on Massachusetts Avenue there are twenty-one structures. Seventeen of the structures are residences and four are chanceries. Of the seventeen residences all have garages. Fourteen garages are located in the rear of the properties and three are contained within the structure itself. Of the seventeen garages, twelve have one-car garages and five have two-car garages. None of the four chanceries have garages. All parking spaces provided by the chanceries are open and to the rear of the property. (Exhibit 127)

23. On California Street and on Massachusetts Avenue on-street parking is limited to two hours except for a limited number of diplomatic zones.

24. Pursuant to Sub-section 4604.1 of the Zoning Regulations the application and site plan were referred for review and report to the Office of Planning and Development, the Department of Transportation, the Department of Environmental Services and the Department of Housing and Community Development. Comment was also requested of the U.S. Department of State and the National Capitol Planning Commission. Pursuant to Sub-section 4604.2 the application was referred to the Historic Preservation Officer of the District of Columbia for a report on the impact of the proposed chancery on said district or landmark.

25. By report dated December 1, 1978 the Office of Planning and Development recommended that the application as proposed be denied on the grounds that the use of the rear portions of the site for six off-street parking spaces would be incompatible with the abutting residential properties, particularly the residence immediately to the right of the subject site. The OPD further reported that if the applicant is prepared to build a parking structure entirely underground, preserving the existing topography and garden levels and meeting all regulatory requirements, it would view such development favorably. The Board concurs,

for reasons hereinafter discussed, that the proposed parking plan is incompatible with the abutting residential properties.

26. The Department of Transportation, by memorandum dated December 6, 1978, reported as follows:

> "Massachusetts Avenue is a principal arterial with a fifty foot wide roadway southeast of the site and forty foot wide roadway northwest of the site. Parking is prohibited during the peak hours in the peak direction allowing two moving lanes. The 1976 Average Daily Traffic was 32,400.
>
> California Street is a local street with a thirty foot wide roadway. Parking is permitted on both sides allowing one narrow moving lane in each direction. On the north side, parking is restricted to two hours, except for Residential Parking Permit holders. On the south side parking is reserved for diplomats only.
>
> The applicant projects a maximum staff of twenty-six people. Thirty-three percent of the present staff use public transportation, eleven percent walk to work and fifty-six percent use automobiles to commute. The present car occupancy rate is three. At these rates, five parking spaces are needed. Zoning Regulations, however, require nine spaces for this development at the rate of one space for each 800 square feet of gross floor area of chancery use. The applicant is providing the required nine off-street parking spaces.
>
> An entrance to the backyard parking spaces needs to be constructed. An adjustment to the existing curb cut on California Street will be required to provide direct alignment of the entrance to the backyard parking spaces. Coordination with the Department will be necessary for this work.
>
> The proposed chancery is expected to add five to ten automobile trips during the evening peak hours. Massachusetts Avenue, during the evening peak hour, operates in level of service E in the northwesterly direction. However, the additional traffic is proportionately insignificant and will, therefore, not cause a measurable change in conditions.
>
> The Department of Transportation recommends that the proposal be denied if for aesthetic reasons, on-site parking is unacceptable."

The Board concurs with the Department of Transportation report.

27. The Department of Environmental Services, by memorandum dated November 20, 1978, reported that it had reviewed the application and found that it did not have a detrimental impact on the environmental quality of the District of Columbia. Water and sewer services are available to the site.

28. The Department of Housing and Community Development, by memorandum dated December 1, 1978, reported as follows:

> "In accordance with Section 4604 of the Zoning Regulations, the Department of Housing and Community Development has reviewed the above application. We note that the proposal not only includes more parking spaces (12) than that required by the requirements of the Zoning District (8) but that all but one of these spaces would be placed within the public rights-of-way adjoining this site. Such a solution fails to meet the Zoning Regulations both for location as well as "keeping with the character of the neighborhood". The site plan is therefore unacceptable.
>
> We note further that no information is supplied concerning the topography of the site so that we cannot judge whether it would be possible to provide the required spaces elsewhere on this site without adverse impact on the surrounding neighborhood. Accordingly, we cannot recommend favorable action on this application."

29. The Department of State, by letter dated December 1, 1978, reported that the Department of State wished to inform the OPD of its strong support for the application of the People's Republic of Bangladesh for a chancery to be located at 2501 Massachusetts Avenue, N. W. The Department of State was of the opinion that this matter involves substantial Federal interests related to the conduct of foreign relations both here and abroad. The Department concluded, after carefully reviewing the application that the proposed use appears to be fully appropriate for its location, does not create adverse impacts, and, based on Section 4603 of the Zoning Regulations, merits approval. The Board appreciates the concerns expressed by the Department of State but for reasons hereinafter more fully discussed the Board cannot concur with the State Department's determination.

30. The National Capital Planning Commission, by letter of November 29, 1978, stated as follows:

> "The application, which was received by the [illegible] October 12, was referred to the Commission by [illegible] Director.

> Municipal Planning Office, by letter dated November 7, pursuant to Paragraph 4604.1 of the Zoning Regulations. Since the referral was subsequent to the November 2 meeting of the Commission and the public hearing is scheduled on December 6, prior to the December 7 meeting of the Commission, we are unable to present the application to the Commission for report and comment to the Board.
>
> It should be noted, however, that chancery use at the premises 2501 Massachusetts Avenue, N.W. is consistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital.
>
> It should be further noted that although the application purports to be an application for a "special exception" the Comprehensive Plan requires that a chancery use at this location shall be permitted as a "matter-of-right".

... The Board notes that the notice for the hearing was corrected to indicate that the application is not being considered as a special exception, but rather under the criteria specified in Section 4603 of the Zoning Regulations.

31. The State Historic Preservation Officer for the District of Columbia, by memorandum dated December 1, 1978 reported as follows:

> "This is in response to your request of November 8, 1978, for a report pursuant to Section 6404.2 of the Zoning Regulations on the impact of the proposed chancery of the People's Republic of Bangladesh to be located at 2501 Massachusetts Avenue, N.W., which is within the Massachusetts Avenue Historic District.
>
> After reviewing the material originally submitted for review, as well as the revised site plan provided by Mr. Robinson of your staff on December 1, 1978, I am deeply concerned about the potential adverse impact which the proposed parking on the, site under either of the submitted plans, will have on significant architectural and historic qualities of the Massachusetts Avenue Historic District. Given the configuration of the lot, its small size and the proximity of the building on the lot to its neighbors, I am of the opinion that the intensity of parking proposed in front of this distinguished building, as indicated on the initial site plan, and particularly in the rear garden, as indicated on the revised site plan, will have a highly undesirable impact on significant residential qualities of 2501 Massachusetts Avenue, as well as of its immediate neighbors in the Massachusetts Avenue Historic District."

The Board so finds.

32. Advisory Neighborhood Commission 1-D testified at the Public Hearing of December 6, 1978 that at it's Town Hall and Commission meeting of Novermber 30, 1978, the ANC voted to oppose the subject application on the following grounds:

1. Zoning Commission Order No. 236 states that the BZA must determine that the proposed Chancery is not incompatible with the present and proposed development of the neighborhood. One basis of determination is the percentage of lot occupancy and minimum yard and court requirements. 2501 Massachusetts Avenue was built as a very large house on a small wedge-shaped lot. It is entirely too close to its neighbors by any standards, particularly for office use.

2. Both proposed off-street parking arrangements necessary to meet the requirements of Order No. 236 will not be in keeping with the character of the neighborhood, another of the review standards. To pave over the rear garden would destroy the appearance and pollute the air of gardens belonging to the next door neighbors and the residents of a portion of Tracy Place. To pave more of the public property in the front for parking, an alternate plan, would be esthetically displeasing and would funnel exhaust fumes into the windows of the house at 2507 Massachusetts Avenue which is extremely close. In either case, the ANC questions whether the parking spaces could meet the requirement of being ten feet away. In regard to parking in the front, the parking arrangements at the Turkish Chancery in the middle of the block have been cited as a precedent. First of all, the Turkish Chancery building is set apart from its neighbors by much greater side yard space than 2501 Massachusetts Avenue. Secondly, it has existed as a Chancery for many years prior to current regulations.

3. The ANC has been told that many of the employees of the Bangladesh Chancery will use public transportation. They did not appear to do so when they worked at what was the Brighton Hotel on California Street. They do not appear to be doing so at their present location on Massachusetts Avenue, understandably because the service is very poor. In fact the bus service on Massachusetts Avenue was another subject of discussion at a recent meeting. The Metrorail Station at Dupont Circle is six blocks from the proposed Chancery. Some of these blocks are very long and some street crossings very difficult and time consuming. In bad weather, not very many people will care to take the walk.

4. The ANC has been told that office use is preferable to residential use because the building will be empty at the end of the day, unless the third floor guest quarters are in use. The fallacy in this statement is that the office use produces traffic during the very hours that the problem is most acute in the neighborhood. At night, parking for entertainment, etc. at the residences is no problem. As for noise, the sounds of children and entertaining are to be expected and are accepted in a residential neighborhood.

5. One argument always set forth for Chancery use is that large houses are no longer salable for private residential use. In recent times, in Sheridan-Kalorama, two large houses on S Street have been sold, one to a private individual and one to an Ambassador for his home. A very large house on R Street has been sold privately. The largest and most lavish of all was just sold for an Embassy for one and a half million dollars, not for a Chancery.

6. When determining the compatibility of the proposed Chancery with the present and proposed development of the neighborhood, it is necessary that a clear look be taken at the residential elements as well as at the existing Chanceries. It is the same problem as deciding whether a glass with some water in it is half full or half empty. The neighborhood has been looked at from only one direction. The survey which the ANC submitted, which is marked as Exhibit 118, clearly establishes the residential character of the area.

7. While the ANC accepts the fact that precedents are not to be considered as valid arguments pro or con before the BZA and that therefore future requests for Chancery use would not be influenced by your decision in this, Sheridan-Kalorama is already feeling the results of the mere fact that this Hearing is being held. A very large house is being advertised as being in "Designated Chancery Zoning" without any mention of BZA approval. There's also a law office quietly establishing itself in a former Chancery related house on the basis of the twisted logic that if a Chancery is an office, and the law business is an office, therefore the house can be used for offices. No attempt has been made to obtain a Certificate of Occupancy or BZA approval.

[illegible] concluded that if this [illegible] valuable house is allowed to be used as a Chancery, it will be the beginning of the end for [illegible] beautiful residential neighborhood. This [illegible]

[illegible] that under Zoning Commission Order No. 236, no Chanceries can be allowed. To the ANC it means that it must prevent the use of unsuitable house for Chanceries or the word will be out that anything goes in Sheridan-Kalorama.

33. The Sheridan Kalorama Neighborhood Council (SKNC) and the two abutting residential property owners, all represented by the same counsel, appeared in opposition to the application. In addition to the same kinds of issues raised by the ANC and already cited herein, the SKNC and the abutting owners took the following positions:

1. The applicant was on notice when it acquired the property in 1977 that alteration or use of the property as a chancery was not permitted under the Zoning Regulations, that the applicant had proceeded to alter the building without obtaining permits from the proper authorities of the District of Columbia, and that the applicant had therefore jeopardized its credibility in now appearing before the Board and requesting permssion to use the premises as a chancery.
2. The Board lacks jurisdiction to hear the application on the ground that the Orders of the Zoning Commission creating and mapping the Diplomatic Districts are unlawful.

34. There were approximately one hundred letters from neighboring property owners in opposition to the application on the grounds that when the subject property was purchased it was represented that it would be used as an Embassy and not a Chancery and that the subject district is a residential district.

35. There was one letter of record in favor of the application. The writer is the owner of the building in which the present chancery of the applicant is located.

36. The Board is required by statute to give great weight to the issues and concerns expressed by the ANC. In the subject application the Board agrees with all the concerns expressed by the ANC except for item three. The Board believes that public transportation is adequate in the area, and that it is reasonable to expect employees to use public transportation where available. The Board concurs in the ANC's resolution that the application be denied.

37. As to the additional issues raised by parties in opposition, the Board finds that the credibility of the applicant is not at issue in this case. The Board finds that, even though alterations were made to the property without proper permits, applicant has not occupied the property illegally, that the alterations already accomplished could suit the building as well for residential use

as for chancery use, and that the statements of the applicant relative to its intention when it originally acquired the building before chancery use could even be applied for, must be accepted at face value.

CONCLUSIONS OF LAW:

The opposition has raised the question of whether the Board even has jurisdiction to hear and decide the application. As raised by the opposition, the question of jurisdiction relates to the legality of Zoning Commission Order No. 236 and 237 which created and mapped the Diplomatic District. The Board concludes that it is not the proper forum in which to raise such an issue, and that absent any stay on the effectiveness of the Zoning Commission Orders, the Board has jurisdiction to hear and decide the case.

Based on the record, the Board concludes that the applicant has not met the requirements of Section 4603 of the Zoning Regulations. The subject building exceeds the lot occupancy (Finding of Fact No. 12) and the west side yard is not eight feet wide in its entirety (Finding of Fact No. 13). The Board notes that the applicant at the Public Hearing of December 6, 1978 requested permission to amend its application and seek variances from the lot occupancy and side yard requirements of the Zoning Regulations. The Board concludes that the applicant has not demonstrated why the property qualifies for a variance, in that the applicant has not shown any "exceptional narrowness, shallowness or shape" or "exceptional situation or condition" of the subject property and has not demonstrated how the strict application of the Regulations "would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner," of the property. The Board notes, however, that it need not consider these requests for variances since, based on the record these issues are not dispositive of this application.

The central and controlling issue in this application is whether the applicant has met the requirements of Sub-section 4603.21 in establishing that the arrangement of the off-street parking spaces are in keeping with the character of the neighborhood. The Board thinks not and agrees with the reasoning of the community opposition, the ANC, the Office of Planning and Development, the Department of Transportation and the State Historic Preservation Officer. The Board's rationale is based on the following issues. The subject area is a residential area zoned D/R-1-3. There are thirty four structures in the subject square of which twenty-eight are residences and only six are chanceries (Finding of Fact No. 9). On California Street and on Massachusetts Avenue there is on-street parking limited to two hours which reflects the residential character of the neighborhood (Finding of Fact

No. 23). The applicant proposes to relocate its present chancery to the subject site. The relocation will cause the presence of an ambassador, seven officers, eighteen employees, nine automobiles, the occupants of three "residential units" on the third floor and visitors (Finding of Fact No. 8). Office uses, such as a chancery, with its inherent characteristics of noise, increased traffic of people and cars and deserted buildings at night are not indigenous to the subject predominately residential neighborhood.

As to the proposed parking scheme for the rear of the subject building in a predominately residential area the applicant proposes six spaces. Much of the rear garden would be eliminated to accommodate the six spaces. The area would be blacktopped. Valet parking would be required since the area does not provide maneuverability for all six cars and a variance would be required for the proposed driveway since it is not fourteen feet wide as required by the Zoning Regulations (Findings of Fact No. 18, 20 and 21). Of the seventeen residences in the immediate area of Massachusettes Avenue and California Street all have garages. Fourteen are in the rear yards and twelve of them have a one car garage and five have two car garages (Finding of Fact No. 22).

Also, the configuration of the subject lot is wedge-shaped. On it's west side, the building at one point is only approximately one foot from the adjoining building. The noise and fumes from the six cars in the rear would have an adverse impact particularly on the residences to the east and west of the subject site. The intensity of the parking in general would not be in keeping with the character of the existing neighborhood in which parking facilities constitute enclosed parking of one or two cars in the rear of the property while still preserving a garden. The aesthetic appearance of the neighborhood would be violated, as well as the amenities of residential living, if this parking proposal was permitted.

The Board has satisfactorily addressed itself to the issues and concerns of the ANC. For the reasons cited above including the area variances needed, an office use in a predominately residential neighborhood and a parking proposal that is out of character with the neighborhood,the Board concludes that this particular subject property is not suitable for a chancery and that the chancery is not compatible with the present and proposed development of the neighborhoood. Accordingly, the application is DENIED.

CONCURRING OPINION OF WILLIAM F. McINTOSH

I concur in the denial of the application solely on the grounds that, as indicated in Findings of Fact Nos. 12 and 13, the percent of lot occupancy exceeds the maximum permitted in, and the minimum yard requirements are not met for, the D/R-1-B District in which the premises are located.

I do not agree with the majority of the Board that the "central and controlling issue in this application is whether the applicant has met the requirements of Sub-section 4603.21". Section 4603 of the Zoning Regulations requires that the Board determine, among other matters, that a proposed chancery "is not incompatible with the present and proposed development of the neighborhood" (Sub-section 4603.1) and find that "[t]he architectural desing and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood" (Sub-section 4603.21) and "[t]he use will not create dangerous or other objectionable traffic conditions" (Sub-section 4603.28).

These provisions clearly purport to make chanceries special exception uses in D District notwithstanding the clear requirement of the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital that chanceries shall be permitted as a matter of right in areas meeting the criteria in Section 313.41 of, and indicated on the Foreign Missions and International Agencies diagram in, the Comprehensive Plan. Amending the notice for the hearing in this case to "indicate that the application is not being considered as a special exception" (Findings of Fact Nos. 1 and 30) does not change the nature of the case.

Accordingly, the "special exception" provision of Section 4603 of the Zoning Regulations does not comply with the requirement in Section 2 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-414), that the Zoning Regulations "shall not be inconsistent with the comprehensive plan for the National Capital" and does not provide a basis for the denial of an application for chancery use in D Districts.

VOTE:

5-0 (Chloethiel Woodard Smith, Ruby B. McZier, Charles R. Norris, William F. McIntosh and Leonard L. McCants to deny)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 22 JUN 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12826, of the Royal Kingdom of Saudi Arabia, pursuant to Section 4603 of the Zoning Regulations, for permission to use the premises as a chancery in the D/R-1-A District at the premises 2929 Massachusetts Avenue, N.W., (Square 2198, Lot 14).

HEARING DATE: January 23, 1979
DECISION DATES: March 7, April 4, May 2, June 6, July 11 and August 8, 1979

FINDINGS OF FACT:

1. This application was originally advertised as a special exception under Sub-section 8207.2 of the Zoning Regulations. After receiving advice from the Office of the Corporation Counsel, by corrected notice, dated November 21, 1978, all parties were advised that, pursuant to the Zoning Regulations adopted by the Zoning Commission in Order No. 236, the application would not be considered as a special exception but would be governed by Section 4603 of the Zoning Regulations.

2. The subject property is located at the northern corner of the intersection of Massachusetts Avenue and Rock Creek Drive, N.W. It is known as 2929 Massachusetts Avenue and is in a D/R-1-A District.

3. The subject lot is approximately 26,000 square feet in area and is improved with a three story detached brick mansion style building. The mansion, known as the "Maie Hewitt Williams House" was designed by Clarke Waggaman and is listed in the National Register of Historic Sites. It is located within and forms an integral part of the Massachusetts Avenue Historic District, a District of Columbia Inventory of Historic Sites Category II historic place, which embraces those properties fronting on or prominently visible from Massachusetts Avenue, N.W., between 17th Street and Observatory Circle.

4. The subject property is set back approximately forty feet from the curb line of Massachusetts Avenue. It has a semi-circular driveway to the front. In the rear of the building are a portico terraces, a fountain and garden. There is a one car garage in the courtyard. The property is surrounded on it's north, east and west boundaries by a ten foot brick wall.

5. The mansion was built as a private residence for Mrs. John Williams in 1917, but in 1922 it was sold to Count Laszlo Szechenyi, Minister to the United States from Hungary and was used as the Royal Hungarian Legation until 1938 when the Count died. Countess Szechenyi, the former Gladys More Vanderbilt, utilized it as her residence until her death in 1965. It was acquired by the Seafarers Washington Building Corporation in 1967 and by the applicant in 1977. The mansion has been vacant since 1967 and is presently in an advanced state of deterioration. The applicant's restoration plans were approved by the Joint Committee on Landmarks on August 21, 1978. The approved plans included the construction of a stairway to provide access to the chancery from Rock Creek Drive.

6. The applicant, a foreign government having diplomatic relations with the United States Government,proposes to use the subject premises as its Chancery.

7. To the immediate east of the subject property is Rock Creek Drive followed by Rock Creek Park. To the south is Massachusetts Avenue, and across it are the Embassies of Bolivia, Brazil and Great Britain. To the west is the Embassy of the Royal Kingdom of Saudi Arabia and then Thirtieth Street, N. W. To the north of the subject property is the rear yard of one residence on Benton Place which abuts the rear yard of the subject property. In Square 2199 which is to the north of the subject Square 2198 there are four embassies. In the subject square there is one embassy and five residences. The subject property is in the corridor known as "Embassy Row".

8. The gross floor area of the subject structure is approximately 16,000 square feet. The applicant contended that approximately 11,599 square feet will be used for chancery purposes, including the Ambassador's personal office, the economic consular's work office, a visa and related matters office, a transmission of messages office and a record keeping office. The applicant contended that the remaining 4,401 square feet, consisting of a spacious ballroom and banquet room to be used by the Ambassador for social functions and a caretaker's quarters, would be used for embassy purposes.

9. The hours of operation of the Chancery will be from 9:00 a.m. to 6:00 p.m. The staff will consist of a total of thirty-five employees, only twenty-five of whom will be present at any one time with the remainder travelling on business. The chancery will be open to the public from 9:00 a.m. to 12:30 p.m. Visitors will average twenty-five a day with only six visitors present at any one time. Visitors seeking visas to Saudi Arabia are few since the Saudi Arabian Government limits visas to persons who are either on official business or who have a written request from persons within the Kingdom to conduct business there. There is no tourist trade as such to Saudi Arabia.

10. The application is brought under Section 4603 of the Zoning Regulations, which provides in pertinent part as follows:

> 4603.1 In areas mapped D, R-5-C, or SP, a chancery is a permitted use, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed Chancery is not incompatible with the present and proposed development of the neighborhood.
>
> 4603.2 In determining that the proposed chancery is not incompatible with the present and proposed development of the neighborhood, the Board of Zoning Adjustment must find that:
>
> 4603.21 The architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood.
>
> 4603.22 The height of the building does not exceed the maximum permitted in the applicable single or combined District in which it is located.
>
> 4603.23 The percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable single or combined District in which it is located.
>
> 4603.24 The maximum FAR does not exceed the FAR prescribed for the applicable single District or the combined Districts in which it is located or an FAR of 1.5, whichever is greater.
>
> 4603.25 Except for Chanceries located in an R-5-C or R-5-D District, off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use.
>
> 4603.28 The use will not create dangerous or other objectionable traffic conditions.

11. At it's public meeting of March 7, 1979, the Board determined that where a country has its embassy and its chancery in two separate, distinct buildings that the gross floor area of it's chancery building shall include the total amount of space in the building used by the government, including all supportive and accessory uses. The Board further determined that, in the subject application, the ballroom, banquet room and caretaker's quarters

should be included in the gross floor area of the subject chancery for the purpose of determining the required number of parking spaces. The applicant was requested to submit a modified parking plan for twenty cars, in accordance with Article 72 of the Zoning Regulations. The Board determined that when all parties had filed their submissions it would consider the following remaining issues:

1. Whether the plan to be submitted by the applicant provides for twenty parking spaces in accordance with the Zoning Regulations and the ruling of the Board.

2. Whether the arrangement of the proposed parking spaces is in keeping with the character of the neighborhood.

3. Whether the use would create dangerous or other objectionable traffic conditions.

The revised parking plan marked as Exhibit No. 72 of the record, was submitted June 25, 1979.

12. The height of the subject building is thirty seven feet. It does not exceed the maximum height of forty feet which is permitted in the R-1-B District, and thus in the combined subject D/R-1-B District, as specified in Sub-section 3201.1 and Paragraph 4603.22.

13. The subject structure occupies about twenty-seven percent of Lot 14, which is less than the permitted forty percent. The rear yard of the subject site exceeds the required twenty-five feet in depth. The eastern side yard exceeds the required eight feet. There is a non-conforming side yard of approximately two feet on the west. The subject property was constructed prior to the current Zoning Regulations and from the aspect of the west side yard is a non-conforming structure. The subject structure from the above aspects complies with the applicable single or combined district in which it is located.

14. The subject structure has a gross floor area of about 16,000 square feet which results in a floor area ratio (F.A.R.) of about .60, less than half the permitted F.A.R. of 1.5. It thus satisfies the requirements of Paragraph 4603.24.

15. As heretofore mentioned the subject structure is in an advanced state of deterioration. The Building will be restored to its former stately condition. The architectural design will be preserved in all sections restored, externally and internally. There will be no additions to the building. The exterior walls surrounding the building, the shrubbery and trees will be preserved. The applicant will expend substantial funds in the renovation of this historic structure which will enhance the historic character of the neighborhood.

16. The applicant's traffic expert witness testified that the use of the subject property as a chancery would have no adverse impact on traffic operations. This conclusion was based on a number of field inspections of the site, traffic counts during peak hours, observations and records of parked vehicles in the area and the existing conditions in terms of traffic operations. The traffic expert testified that traffic on Massachusetts Avenue past the subject site operates at a level of service D in both morning and evening peak hours. There is a signal at the intersection of Rock Creek Drive and Massachusetts Avenue. The signal operates on a 120 second cycle of which 104 seconds are assigned for green time on Massachusetts Avenue. The remaining sixteen seconds are for Rock Creek Drive. No parking is permitted on Massachusetts Avenue. Parking is permitted without any restriction on both sides of Rock Creek Drive. There is very good bus service on Massachusetts Avenue; during peak hours the average headway is 2.3 minutes. There is also Metrorail service that comes as far as Dupont Circle.

As to employees of the Saudi Arabian Chancery, eighty-five percent resides in northern Virginia and the remaining fifteen percent in the District of Columbia. The assumption of a modal split is that ninety percent of the employees will come by automobile and only ten percent by transit. With 1.3 persons per car, this would require a maximum number of parking spaces for employees of seventeen. This is based on the twenty-five employees at one time on the subject site. As to the visitors, with the peak accumulation of six visitors, approximately eighty percent arrive by taxicab. There would be a need for two parking spaces for visitors. Taking the number of trips that would result from the chancery operation, including both the employees and the visitors, there would be no change in the level of service on Massachusetts Avenue. In terms of parking requirements, the total number of spaces needed would be nineteen. The Department of Transportation is considering whether to provide for five diplomatic spaces on Rock Creek Drive. Thus, there would be five spaces on-street in addition to the number of on-site spaces that would be provided. There would thus be substantially more spaces available approximately twenty-four to thirty-four spaces than the peak demand of nineteen spaces.

The approximate morning peak hour traffic flow on Massachusetts Avenue in the inbound direction is 2600 vehicles going southeast on Massachusetts Avenue toward Dupont Circle. The traffic generated by the proposed chancery use would be less than one-half of one percent of that figure. It would not be any increase at all since with the present location of the chancery on Eighteenth Street just off Massachusetts Avenue, probably all the employees will be traveling down Massachusetts Avenue in the future just as they do now.

As to the neighborhood streets, the traffic witness testified that the proposed chancery use will not generate traffic on Benton Place or Edgevale Terrace. No more than one car per day could be generated on Thirtieth Street. The Board concurs with the findings and conclusions of the traffic witness that the proposed chancery use will not create dangerous or other objectionable traffic conditions. It also notes that the nineteen parking spaces were predicated upon the original parking plans submitted by the applicant, and not upon the revised plans ordered by the Board.

17. As stated in Finding No. 11, the Board determined that twenty off-street parking spaces were required for the subject property. The applicant submitted a new parking plan marked as Exhibit No. 75 of the record, reflecting eighteen spaces in the rear of the property and two spaces in the courtyard adjacent to the subject building. Twenty spaces represents one space for every 800 square feet of gross floor area. The direct access parking is provided via a driveway and aisle fourteen feet in width, except where the driveway passes through a nine foot gateway in the wall surrounding the rear yard of the property. This gateway could be widened to fourteen feet by demolishing a portion of the wall and moving some plantings. The applicant will provide attendant parking and can thereby accommodate up to ten additional cars, excluding the garage space and the circular driveway. The applicant proposes to pave the open parking area with a material known as "grass brick" which is not an impervious material and permits grass to grow through it. Visually, the effect of installing this surface is to create more green open space.

Approximately ten percent of the staff utilize public transport, since the subject site is on several Metrobus routes and is only a short bus ride from the Dupont Circle Metro Station. Ninety percent commute to work by car with an average of 1.3 persons per vehicle. The maximum employee demand for parking will be seventeen spaces.

The Chancery will be open to the public only from 9 a.m. to 12:30 p.m. Visitors will average twenty-five a day, with only six visitors present at any one time. Of the visitors, approximately eighty percent will arrive by taxi, based on past experience. The peak visitor demand for parking will be two spaces. The demand of staff and visitors for parking will therefore total nineteen spaces. This is less than the twenty required direct access on-site spaces, and less than the thirty spaces which will be provided with attendant parking.

As previously stated, the Department of Transportation (DOT) is considering reserving five spaces for chancery use on the west side of Rock Creek Drive directly adjacent to the subject site. If off-site parking or pick up occurs, it will be confined to the area immediately adjacent to the subject site. As noted, the applicant will construct a stairway to provide access to the Chancery from Rock Creek Drive. The DOT may eliminate parking on the east side of Rock Creek Drive which borders Rock Creek Park. Thus, parking on Rock Creek Drive will actually be reduced overall, and the lane of access will be widened thereby improving traffic safety. The existing parking on Rock Creek Drive is utilized by commuters; there is only one residence adjacent to Rock Creek Drive in Square 2198 and that residence fronts on Benton Street, N.W.

18. The design and arrangement of the off-street parking spaces are in keeping with the character of the neighborhood. The off-street parking spaces will be located in the rear yard of the property. The restoration plans approved by the Joint Committee on Landmarks included location of off-street parking spaces in the rear yard. The rear yard is surrounded by a ten foot wall. The wall will screen the parking area from view from Rock Creek Drive which abuts the property on the east. The Saudi Embassy abuts the property on the west. The sole private residential use abutting the property is to the rear. The rear yard of this residential use is about four feet lower in grade than the rear yard of the chancery and, as a result, the wall at the rear yard of the subject site is about fourteen feet high when measured from the rear yard of the residential use. Cars parked in the rear yard of the subject site could not be seen from the rear yard or the first floor of the residential structure. The residential structure is located about seventy-five feet from the fourteen foot wall. The line of sight is such that little if any of the rear yard of the subject site could be seen from the second floor of the residential structure. The Board finds that the arrangement of the off-street parking spaces in in keeping with the character of the neighborhood.

19. Pursuant to Sub-section 4604.1 of the Zoning Regulations the application and site plan were referred for review and report to the Office of Planning and Development, the Department of Transportation and the Department of Housing and Community Development. Comment was also requested of the U.S. Department of State and the National Capital Planning Commission. Pursuant to Sub-section 4604.2 the application was referred to the Historic Preservation Officer of the District of Columbia for a report on the impact of the proposed chancery on said district or landmark.

20. By report dated December 1, 1978 the OPD recommended that the application be approved on the grounds that it met all the requirements of the sub-sections of Section 4603 as to the height of the building, percentage of lot occupancy, minimum yard requirements, F.A.R., off-street parking spaces, compatibility with the present and future development of the neighborhood and that the Chancery use will not create dangerous or other objectionable traffic conditions. The Board concurs with the findings of the OPD.

21. The DOT, by memorandum dated December 7, 1978, reported as follows:

> "Massachusetts Avenue is a principal arterial with a forty foot roadway in the vicinity of the proposed development. Parking is prohibited at all times. Rock Creek Drive, abutting the property on the east side, is a local street with a twenty-six foot wide roadway. Unrestricted parking is in effect on both side of this street. Thirtieth Street, west of the subject site, is a local street with a thirty foot side roadway.
>
> Traffic to and from the site will pass either the intersection of Massachusetts Avenue and Rock Creek Drive or the intersection of Massachusetts Avenue and Thirtieth Street. Westbound, Massachusetts Avenue currently operates at level of service A during the morning peak hour between 8:00 a.m. and 9:00 a.m. The eastbound direction operates at level of service D during the morning peak hour. During the p.m. peak hour, between 5:00 p.m. and 6:00 p.m., the westbound direction operates at level of service D and the eastbound direction operates at level of service A.
>
> The applicant states that the Chancery will have an average daily staff of 25 persons, although a total of approximately 35 persons will be employed at the facility. Furthermore, 25 daily visitors are expected to be generated by the facility, but the maximum at any one time is 6 visitors. The chancery

> is open to the public from 9:00 a.m. to 12:30 p.m. only. Eighty percent of the visitor trips are made by taxi, according to the applicant's traffic consultant.
>
> The applicant's traffic consultant projects a 10 percent transit usage and a 90 percent automobile usage at 1.3 occupants per vechicle. Using these assumptions, the chancery will generate approximately 18 vehicles during each peak hour. Even if the generated traffic by the chancery approaches or leaves the site in the peak direction, the level of service that currently exists would not be measurably affected.
>
> The applicant proposes to provide on-site parking spaces at one space per 800 square feet of chancery use. The gross floor area devoted to chancery use is 11,599 square feet, thus requiring 15 spaces according to Zoning Regulations.
>
> Employees of the chancery should be encouraged to increase transit usage and the automobile occupancy rate. This will lessen the liklihood that the 15 spaces will be insufficient, which is probable if the above rates are used. For those occasional functions when there is a greater parking demand, we do not object to the use of attendant on-site parking for approximately 25 automobiles as suggested by the applicant.
>
> The existing 10 foot circular driveway on Massachusetts Avenue will be retained. Access to the proposed backyard parking spaces will be provided by was of a nine foot driveway off the circular driveway.
>
> Metrobus routes N-1, N-2, N-3, N-4 and 37 operate on Massachusetts Avenue. Thirty-two inbound buses pass the site during the morning peak hour and 28 outbound during the evening peak hour. During the off-peak hours, buses pass the site at 10 to 15 minute intervals. The site is not served directly by Metrorail."

The Board notes that the DOT report as to on-site parking spaces was predicated upon the original parking plan submitted by the applicant. As stated in finding no. eleven the gross floor area was increased to include the ballroom, banquet room and caretaker's quarters thus increasing the required number of on-site parking spaces to twenty rather than fifteen. At the public hearing of January 23, 1979, the DOT testified that based on its analysis of the traffic impact there would be no objectionable traffic conditions generated. The Board concurs in the findings of the DOT.

22. The Department of Housing and Community Development, by memorandum dated December 1, 1978, reported as follows:

> "In accordance with Section 4604 of the Zoning Regulations, the Department of Housing and Community Development has reviewed the above regulations. We have found that the proposal meets the requirements for this District and that the proposed chancery is not incompatible with the present and proposed character of the neighborhood. Accordingly, we have no objection to favorable action by the Board of Zoning Adjustment on this application." The Board concurs in the findings of the Department.

23. The Department of State, by letter dated December 1, 1978, reported that the Department of State wished to inform the OPD of it's strong support for the application of the Royal Kingdom of Saudi Arabia for a chancery to be located at 2929 Massachusetts Avenue, N.W. The Department of State was of the opinion that this matter involves substantial Federal interests related to the conduct of foreign relations both here and abroad. The Department concluded, after carefully reviewing the application that the proposed use appears to be fully appropriate for its location, does not create adverse impacts, and based on Section 4603 of the Zoning Regulations, merits approval. The Board appreciates the concerns expressed by the Department of State. For different reasons, fully discussed herein, the Board concurs with the State Department's determination.

24. The National Capital Planning Commission, by letter of November 29, 1978, stated as follows"

> "The application, which was received by the Board on October 24, was referred to the Commission by the Director, Municipal Planning Office, by letter dated November 7, pursuant to Paragraph 4604.1 of the Zoning Regulations. Since the referral was subsequent to the November 2 meeting of the Commission and the public hearing is scheduled on December 6, prior to the December 7 meeting of the Commission, we are unable to present the application to the Commission for report and comment to the Board.
>
> It should be noted, however, that chancery use at the premises 2929 Massachusetts Avenue, N.W. is consistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital.

> It should be further noted that although the application purports to be an application for a "special exception" the Comprehensive Plan requires that a chancery use at this location shall be permitted as a "matter-of-right"."

25. The State Historic Preservation Officer for the District of Columbia, by memorandum dated November 28, 1978 reported as follows:

> "This is in response to your request of November 8, 1978, for a report pursuant to Section 6404.2 of the Zoning Regulations on the impact of the proposed chancery of the Royal Kingdom of Saudi Arabia to be located at 2929 Massachusetts Avenue, N.W., which is within the Massachusetts Avenue Historic District.
>
> After reviewing the materials submitted for review, I am of the opinion that the proposed exterior alterations to the building and the site will not have an adverse impact on significant architectural and historic qualities of the Massachusetts Avenue Historic District.
>
> For your information, these proposed alterations were referred to this office by the Chief of the Permit Branch on August 21, 1978, pursuant to D.C. Regulations 73-25 (Landmark Case No. 78-366). At its meeting on September 8, the Joint Committee on Landmarks of the National Capital reviewed the plans and recommended to me that the proposed alteration was not contrary to the public interest and should not be delayed. I concurred in the Joint Committee's recommendation."

The Board concurs with the findings of the Joint Committee and the Historic Preservation Officer.

26. By vote of the Commissioners of ANC 3C of January 16, 1979, four in favor, two opposed and one abstaining, the ANC recommended that the application be approved subject to the satisfactory resolution of five specific areas of concern listed below and specific unanswered questions concerning (a) the legality of the mixed use diplomatic districts vis-a-vis the Chancery Act of 1964 (b) an apparent conflict between the requirements of Article 46 of the Zoning Regulations and the provisions of Section 8207.2 relating to special exceptions and (c) the issues raised by the correspondence to the ANC from neighboring residents of the subject area. The ANC also testified that it is it's perspective that no Chancery is inherently compatible with any residential area it may abut.

The five specific areas of concern are:

a. Parking, overflow of vehicles to residential areas, driveway width, and screening of parking areas: As to this specific area of concern, the ANC recommended that the Board rule on how many spaces are required, the recourse if the parking is insufficient, how wide the driveway must be and the screening of the parking area. The ANC also requested that the immunity of chancery employees under the Diplomatic Relations Act be waived by the Ambassador.

b. Access to Rock Creek Drive: The ANC recommended against a stairwell from the parking area to Rock Creek Drive and a curb cut on Rock Creek Drive to the parking area so as to discourage parking on Rock Creek Drive and to encourage the use of the rear lot from Massachusetts Avenue.

c. Lighting interior and exterior: The ANC recommended subdued lighting and appropriate window shading/curtains in all areas which have windows in public view or in view of residential neighbors adjacent to the proposed chancery. As to the parking area, the ANC recommended that any lighting installed lie low to the ground and be subdued.

d. Transferability and enforceability: The ANC recommended that the Board limit any approval to the subject applicant and that the Board require a new application under other circumstances. The ANC recommended that the present Ambassador assure that if any aspect of the chancery function expand so as not to be self contained by the subject property,that temporary or permanent satelite offices for that expanded function be established and that any commitments made by the present Ambassador be reaffirmed by any subsequent Ambassadors.

e. Maintenance and upkeep: The ANC recommended that the Board insure that maintenance of the property will be regular and appropriate in order to protect nearby residential neighbors from potential harmful effects.

27. The Cleveland Park Association and residents of the immediate neighborhood appeared through counsel in opposition to the application. The D.C. Federation of Civic Associations, Inc., adopted the position of the Cleveland Park Association. There was a letter in opposition signed by approximately thirty residents of the immediate neighborhood. The opposition raised the same kinds of issues raised by the ANC in its five specific areas of concern, the applicability of Sub-section 8207.2 versus Section 4603 of the Zoning Regulations, the applicability of the Chancery Act of 1964 and the issues of specific neighbors that were attached to the ANC report. These specific issues were basically that the proposed use is an office use and that an office use is not compatible with the present and proposed development of the neighborhood as to the arrangement and number of off-street parking spaces and that the use will create objectionable traffic conditions.

28. The Board is required by statute to give great weight to the issues and concerns expressed in writing by the ANC. In addressing these issues and concerns, as well as those of the opposition, the Board replies as follows:

a. The Board at it's public meeting of March 7, 1979, determined that twenty off-street parking spaces were required under the Zoning Regulations and that the applicant submit a modified parking plan that reflects full compliance with Article 72 of the Zoning Regulations. The Board has approved the parking plan and determined that it's arrangement is in keeping with the character of the neighborhood (Finding No. 18). The Board also found that the proposed chancery use would not create dangerous or other objectionable traffic conditions (Finding No. 17). As hereinafter stated the Board will condition the granting of the application to the effect that the existing wall and plantings abutting the access driveway will be preserved

As to the remedies available if there is an overflow of parking and the lack of immunity for chancery employees, the Board states that it has no jurisdiction over these concerns. It is the Board's function to determine that the applicant provides the amount of parking spaces required by the Zoning Regulations and that the number provided is sufficient. The Board has so found. It is the function of other departments to enforce any violations thereof. As to the issue of immunity, the Board cannot usurp the administrative functions of the Ambassador.

b. It is presumed that the Department of Transportation will reserve five parking spaces for chancery use on the west side of Rock Creek Drive directly adjacent to the site. The Board finds that this accommodation will prevent any tie-up of traffic and that the use of the stairwell will facilitate a visitors business. It is anticipated that the parking spaces to the rear of the subject property will be used by parties who are not short term parkers. There are no plans before the Board for a curb cut on Rock Creek Drive.

c. There has been testimony that the applicant plans to restore the subject property to its former state. There has been testimony that the use will be in keeping with the character of the neighborhood. The Board is confidant that the amenities pertaining to the lighting concerns of the building and rear parking accommodations will be observed and implemented by the applicant.

d. In the subject application the Board is required to determine only if the subject property can be used as a chancery under the provisions of Section 4603 of the Zoning Regulations. It will not determine who will use the property. The Zoning Commission in it's Order No. 236 and 237 created and mapped the Diplomatic District. The Orders provide for the establishment of chanceries. They address themselves to the properties not persons. The Board in this case will not limit the use ofthe property only to certain parties. As to firm and binding assurances from the Ambassador as to how he will control the use of the property and on the conduct of subsequent Ambassadors the Board deems such a concern as ultra-vires to the Board's functions.

e. As to the maintenance and upkeep of the property the Board reiterates what it stated in reply to issue and concern No. 3.

29. Advisory Neighborhood - 3C has requested the Board to address certain legal issues. The question has been raised whether the Board has jurisdiction to hear and decide the application. The question of jurisdiction relates to the legality of Zoning Commission Orders No. 236 and 237 which created and mapped the Diplomatic District. The Board concludes that it is not the proper forum in which to raise such an issue, and that absent any stay on the effectiveness of the Zoning Commission Orders, the Board has jurisdiction to hear and decide the case.

The Board also rejects the opposition's contention that the special exception criteria of Sub-section 8207.2 of the Zoning Regulations are applicable to the subject opposition. As stated in Finding No. 1 the Board determined that the review process under Section 4603 of the Zoning Regulations will govern and the application was readvertised under a corrected notice. The Board further concludes that the requirements of Article 72 of the Zoning Regulations are applicable to chancery use and so ruled in it's public meeting of March 7, 1979 as stated in Finding No. 11.

30. Advisory Neighborhood Commission - 3C further requested the Board to address the concerns raised by the residents of the neighborhood in their correspondence to the ANC (EX. 54, Tab B). The Board finds that the material issues raised by these residents (i.e., that the proposed use is an office use and is not compatible with the residential character of the neighborhood, traffic, noise, parking, and the Board's lack of jurisdiction)were encompassed in the issues already considered at the public hearing and in this Order. The Board further notes that some of the neighbors referred to by the ANC in fact testified at the public hearing and were subject to cross-examination. Other issues such as the possibility of electronic contamination and microwave emission are hypothetical, unfounded and immaterial. They were not raised at the public hearing and accordingly not subject to cross-examination. The Board will not decide specious matters.

31. On August 7, 1979, the Board visited the site personally to inspect the building. It also toured the immediate neighborhood. Accompanying the Board on its tour were counsel for the applicant and the opposition, a representative of ANC 3C and a neighboring property owner who had appeared in opposition to the application.

CONCLUSIONS OF LAW:

The opposition has raised the question of whether the Board even has jurisdiction to hear and decide the application. As raised by the opposition, the question of jurisdiction relates to the legality of Zoning Commission Orders No. 236 and 237 which created and mapped the Diplomatic District. The Board concludes that it is not the proper forum in which to raise such an issue, and that absent any stay on the effectiveness of the Zoning Commission Orders, the Board has jurisdiction to hear and decide the case.

Based on the record, the Board concludes that the applicant has substantially complied with the requirements of Section 4603 of the Zoning Regulations. The architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood (Finding Nos. 5, 15, 17 and 25). The height of the building is three feet less than the maximum height permitted by the Zoning Regulations (Finding No. 12). The subject structure occupies approximately twenty-seven percent of lot 14 which is less than the permitted forty percent of the Zoning Regulations. The rear yard exceeds the required twenty-five feet in depth: The eastern side yard exceeds the required eight feet width. The western side yard although two feet wide is a lawful non-conforming side yard (Finding No. 13). The FAR of the subject improvement is approximately .60 which is less than half the permitted floor area ratio of 1.5 (Finding No. 14). Twenty off-street parking spaces are provided at the ratio of one space for every 800 square feet of gross floor area devoted to Chancery use (Finding No. 17). The proposed use will not create dangerous or other traffic conditions (Finding Nos. 16, 17, 18 and 21). Based on the above, the Board concludes that the proposed chancery is not incompatible with the present and proposed development of the neighborhood.

In reference to the applicant's request to permit the parking area to be covered by the above-mentioned grass-brick surface, the Board concludes that no variance is required. The Board also concludes that a variance is not required to permit the nine foot wide gateway in the wall surrounding the rear yard to remain. Under Section 4604.3 the Board has the authority to require special treatment regarding the parking area and access to parking as conditions to this Order. Here the special surface and the retention of the existing gateway will mitigate any possible adverse impacts on the neighborhood and will protect this historic structure.

Since the surface material is relatively uknown, a trial period will be established with review of that aspect of the application after two years of experience.

The Board has satisfactorily addressed itself to the issues and concerns of the ANC, and has accorded to the ANC the "great weight" to which it is entitled.

Accordingly, it is ORDERED that this application is GRANTED. Pursuant to the authority contained in Sub-section 4604.3, the Board hereby ORDERS that the surface of the parking lot shall be paved with checker block pavers as shown on Exhibit No. 47 of the record, rather than with an all weather impervious surface. The Board also ORDERS that approval of the material for the surface of the lot shall be for a period of TWO YEARS only from the final date of this Order, in order for the Board to be able to review the suitability of the material in light of traffic, weather, maintenance and other conditions. It is hereby ORDERED that the applicant shall reapply to the Board prior to the end of the TWO YEAR period for permission to continue use of the checker block pavers.

VOTE as to the granting of the application: 4-1 (William F. McIntosh Charles R. Norris, Leonard L. McCants and Ruby B. McZier to GRANT, Chloethiel Woodard Smith OPPOSED).

VOTE as to the surface of the parking lot: 3-1 (Ruby B. McZier, Charles R. Norris, and Leonard L. McCants in favor of checker block pavers, Chloethiel Woodard Smith OPPOSED, William F. McIntosh not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: ______________________
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 9 NOV 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OR OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12826 of the Royal Kingdom of Saudi Arabia, pursuant to Section 4603 of the Zoning Regulations, for permission to use the premises as a chancery in the D/R-1-A District at the premises 2929 Massachusetts Avenue, N. W. (Square 2198, Lot 14).

HEARING DATE: January 23, 1979
DECISION DATES: March 7, April 4, May 2, June 6, July 11 and August 8, 1979

DISPOSITION: The Board GRANTED the application by a vote of 4-1 (William F. McIntosh, Charles R. Norris, Leonard L. McCants and Ruby B. McZier to grant, Chloethiel Woodard Smith opposed. The Board ordered that the surface of the parking lot shall be paved with checker block pavers rather than with an all-weather impervious surface and that such approval shall be for a period of TWO years from the Final Date of this Order at which time the Board will review the suitability of the checker block pavers by a vote of 3-1 (Ruby B. McZier, Charles R. Norris and Leonard L. McCants in favor of checker block pavers, Chloethiel Woodard Smith opposed, William F. McIntosh not voting.)

FINAL DATE OF ORDER: November 9, 1979

ORDER

On November 14, 1979 Counsel for the Cleveland Park Citizens Association, immediate neighbors and two ANC Commissioners, filed a Motion for a STAY of the Board's Order and for an expedited hearing on the Motion for STAY of Order. On December 3, 1979, the applicant filed a response to the Motion for STAY. Upon consideration of the opposition's Motion for STAY of Order and the applicant's response, the Board found no basis for it to stay the effect of its Order and, therefore, DENIED the Motion by a vote of 4-0 (Walter B. Lewis, William F. McIntosh, Charles R. Norris and Leonard L. McCants to deny, Connie Fortune not voting, not having heard the case).

DECISION DATE: December 5, 1979.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 10 MAR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13137, of the National Trust for Historic Preservation in the U.S., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.44 to use part of the fourth floor of the subject premises as a Chancery in an SP-2 District at the premises 1785 Massachusetts Avenue, N.W. (Square 157, Lot 112).

HEARING DATE: January 16, 1980
DECISION DATE: February 6, 1980

FINDINGS OF FACT:

1. The subject property is located on the north side of Massachusetts Avenue at its intersection with 18th Street, in an SP-2 zone district at premises known as 1785 Massachusetts Avenue, N.W.

2. The subject site is approximately 12,000 square feet in area, and is improved with a five story and basement brick structure, presently used as an office building under Certificate of Occupancy No. B101043, dated January 27, 1977.

3. The building is owned by the National Trust for Historic Preservation. The Trust has established its headquarters in the subject structure's basement and first three floors. It leases the fourth and fifth floors to various non-profit or professional offices.

4. The applicant testified that approximately 60,000 square feet of the building is rentable space. The fourth floor square footage is 10,220 square feet. Of this 10,220 square feet, the Embassy of Gambia proposes to lease 2,655 square feet or twenty-six percent to be used as office space for its Chancery.

5. The remainder of the fourth floor will be occupied by the Asia Society, The Carnegie Foundation for the Advancement of Teaching and the United Nations High Commissioner for Refugees. Each organization plus the Gambian Embassy will occupy approximately one fourth of the fourth floor.

6. The entire fifth floor is rented to a law firm.

7. The Chancery of Gambia proposes to employ seven persons, two of whom will be employed locally from the District of Columbia. The remainding five will be from Gambia.

8. The Chancery estimates that visitors will number approximately four per week.

9. The proposed hours of operation for the Chancery are 9:30 a.m. to 5:00 p.m., Monday through Friday. The Chancery has three cars assigned to serve its employees at this facility. The remainder of the staff uses public transportation.

10. The area is well served by public transportation as well as public parking facilities. The Chancery proposes to use the surrounding commercial lots for its vehicles.

11. The National Trust purchased the building in January of 1975 for use primarily as its headquarters. The Trust completed a $2.5 million renovation of the building during 1978 and 1979. The Trust has ample room on the first three floors of the site and does not anticipate expansion into the rest of the building during the next few years.

12. The property is surrounded by a variety of office and chancery uses. Located within the same block is the Chancery of Chile, Chancery of Trinidad and Tobago, Chancery of the Dominican Republic, the Embassy and Chancery of the Philippines, the Embassy and Chancery of Canada, the Embassy and Chancery of Peru and the Chancery of Rowanda.

13. There are no changes proposed for the building. The building is in architectural harmony with the existing neighboring property.

14. The subject structure has been designated by the National Register of Historic Places as contributing to the historic significance of the Dupont Circle.Historic District.

15. Pursuant to the requirements of Sub-section 4101.5, the application was referred to the Office of Planning and Development on November 27, 1979. No report from the OPD was received.

16. The Department of Housing and Community Development, by report dated January 24, 1980, found that the proposed Chancery use is of such a size and nature, that it would be compatible with surrounding uses and would have no adverse impact upon the neighborhood. The Board so finds.

17. Advisory Neighborhood Commission 2B by report dated January 16, 1980, and testimony given at the time of public hearing opposed the application on the grounds that Chanceries should be placed in commercial zones, since they are basically offices. The ANC felt that the area is presently over burdened by the number of offices and chanceries already located in the area, and that chanceries operated beyond normal work hours and are therefore a more intensive office use intrusion into residential neighborhoods. The ANC also noted that chanceries create problems in the neighborhoods in which they are located.

18. The Dupont Circle Citizens Association offered testimony at the public hearing in opposition to the application on much the same grounds as the ANC. The DCCA felt that the use would add to the parking problems currently experienced by the area as well. The DCCA did testify, however, that the building is in perfect harmony with adjoining and surrounding buildings with respect to height, bulk and design as well as existing uses and structures of neighboring properties.

19. By statute, the Board is required to give great weight to the issues and concerns of the ANC. In addressing these issues, as well as those raised by the DCCA, the Board finds as follows:

> a. The Findings of Fact and the Conclusions of Law, hereinafter stated, find that the applicant has met its burden of proof and met the requirements of Paragraph 4101.44 of the Zoning Regulations.
>
> b. Sub-section 4101.1 of the Zoning Regulations does not preclude office buildings. The major purpose of the SP District is to act as a buffer between adjoining commercial and residential areas, and to ensure that new development is compatible in use, scale and design with the transitional function of this zone district. In the subject application, as hereinafter concluded, the proposed building is compatible with other neighborhood uses and structures. In addition, a building of architectural merit is being preserved and protected.

c. As to the issue of parking, the Board finds that chancery use in its impact is essentially the same as any other permitted SP office use. The Board notes that the proposed use will have a maximum of seven employees, that the area is well served by mass transit, and that there are adequate commercial parking facilities available in the area. The Board finds that the proposed chancery use is not likely to cause dangerous or objectionable traffic or parking conditions. However, in order to asses the impactmore fully after the use has been in existence for some time, the Board will limit the initial approval to a three year period.

d. The Board notes that a certificate of occupancy has been issued for the entire building for office use for non-profit organization. The Board finds that chancery uses are permitted in the same manner in an SP District as other offices, and that the chancery use would be completely compatible with other office uses of the building.

e. As stated in Finding of Fact No. 9, the proposed hours of operation will be from 9:30 a.m. to 5:00 p.m.

f. As to the contention that chanceries should only be permitted in commercial districts, the Board notes that the same arguments were presented to the Zoning Commission when it considered the matter, and the Commission adopted regulations permitting chanceries in SP Districts with Board approval. The Board has no authority to amend any zoning regulations or maps.

20. A representative of the U.S. Department of State appeared at the hearing and indicated that the Department supported the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact, and the evidence of record, the Board concludes that the applicant has substantially complied with the requirements of Paragraph 4101.44. The proposed use is for offices of the Chancery of Gambia. The Board concludes that the use is in harmony with existing uses on neighboring property.

The area is well served by public transportation, as well as ample supply of parking garages, so that the Board concludes that no dangerous or other objectionable traffic conditions are anticipated. The building is also of historic character and contributes to the Dupont Circle Historic District. The Board further concludes that the building is in architectural harmony with adjoining and surrounding structures. The Board further concludes that the special exception can be granted in harmony with the general intent and purposes of the Zoning Regulations and Map, and will create no adverse impact on the use of neighboring property. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled, but for the reasons stated, arrives at a different conclusion from that advocated by the ANC.

Accordingly, it is hereby ORDERED that this application is GRANTED subject to the FOLLOWING CONDITIONS:

a. Approval shall be for a period of THREE YEARS.

b. There shall be a maximum of seven employees.

VOTE: 3-0 (William F. McIntosh and Connie Fortune to GRANT; John G. Parsons to GRANT by PROXY; Leonard L. McCants not voting, having recused himself; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:
STEVEN E. SHER
Executive Director

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

FINAL DATE OF ORDER: 21 APR 1980

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13166, of the Government of the Republic of Italy, pursuant to Sub-section 7501.4 of the Zoning Regulations, for further processing of a planned unit development to permit the construction of a Chancery in an R-5-C District at the premises 2800 Albemarle Street, N.W. also known as 4400 Broad Branch Road, N.W. (Square 2248, Parcel 58/200).

HEARING DATE: February 13, 1980
DECISION DATE: March 5, 1980

FINDINGS OF FACT:

1. The subject site is known as the Firenze Estate. It is located at 2800 Albemarle Street, N.W., also known as 4400 Broad Branch Road, N.W. The majority of the site is zoned R-1-A. A portion of the site is zoned R-5-C.

2. The subject site comprises approximately 21.7 acres. The site is improved with a large single family residence currently being used as the embassy of the Republic of Italy, a use permitted as a matter-of-right. The majority of the site is undeveloped and wooded, with a cleared and generally level area at its center. The site slopes downward from the west to east toward Rock Creek Park and from north to south toward Soapstone Valley Park. The high point is at elevation 211 at the northwest corner of the site near Albemarle Street. The low point is at elevation 70 at the southeast corner of the site at Broad Branch Road.

3. The Zoning Commission granted preliminary approval to an application for a Planned Unit Development for this site by Order No. 205, dated February 9, 1978. This application is therefore being processed in accordance with the Regulations in effect on that date.

4. By Order No. 283, dated June 14, 1979, the Zoning Commission granted final approval to the PUD and a concurrent change of zoning for part of the site from R-1-A to R-5-C.

5. In Order No. 283, the Zoning Commission set out guidelines, conditions and standards for the further development of the PUD. Those conditions, with the Board's findings thereon, are as follows:

a. The Planned Unit Development shall include the entire 21.7 acre Firenze Estate. The area to be rezoned from R-1-A to R-5-C shall comprise 3.41919 acres, and shall be as shown on the plan marked as Sheet D6 of Exhibit 5 of the record. The Board finds that the plans submitted include the entire 21.7 acres and that the rezoned area comprises 3.41919 acres in compliance with this condition.

b. The property shall be for the exclusive use of the Government of Italy for its embassy, chancery, and other government offices including associated supporting and accessory uses. The Board finds compliance with this condition.

c. The existing Firenze Estate house shall be retained for embassy use only. The Board finds compliance with this condition.

d. The Government of Italy may construct up to six single family dwellings, which conform to the standards of the R-1-A District, on the property. The location and design of such dwellings shall be reviewed by and receive the prior approval of the Board of Zoning Adjustment in accordance with the provisions of Sub-section 7501.4 of the Zoning Regulations in effect on the date this application was filed.

The plans as submitted do not provide for the construction of the six single family dwellings. Such construction would require further application to and approval from the Board.

e. The final design of the complex shall be based on the plans presented to the Zoning Commission with the final application, marked as Exhibit No. 5 of the record. The Board finds that the final design is based on the plans presented to the Zoning Commission, in compliance with this condition.

f. The maximum height of all buildings and structures shall be limited to forty feet, as measured from the finished grade in front of the chancery, but in no event shall the height of the building exceed forty-five feet above the adjacent finished grade surrounding the chancery. The Board finds that as measured from the finished grade in front of the chancery the height is less than forty feet and at no point does the height of the building exceed forty-five feet above the adjacent finished grade, in compliance with this condition.

g. The gross floor area in the chancery shall not exceed 80,000 square feet. The Board finds that the gross floor area in the chancery is approximately 42,770 square feet, in compliance with this condition.

h. The maximum percentage of lot occupancy for the chancery structure shall not exceed forty percent of that part of the site zoned R-5-C. The Board finds that the lot occupancy of the chancery structure is 13.46 percent, in compliance with this condition.

i. Parking shall be provided in the chancery structure at a rate of one space for each 800 square feet of gross floor area devoted to chancery use. Surface parking shall be confined to appropriately screened locations, and shall not exceed 100 spaces. The total number of spaces shall not exceed 150. The Board finds that the applicant's site plan provides for a total of 125 parking spaces. Eighty-five indoor and forty outdoor spaces are provided, in compliance with this condition.

j. Vehicular access to the chancery shall be from Broad Branch Road, with the location and provision of such access as determined in conjunction with and approved by the D.C. Department of Transportation, all as shown on Sheet D9 of Exhibit 5 of the record. The two gates, shown on Sheet D9, which restrict access from Albemarle Street to the Chancery shall be kept locked at all times, except to permit access for emergency vehicles and by visitors during national holidays and for evening functions. The applicant shall follow its Transportation Plan for car-pooling as submitted to the Zoning Commission and approved by the Department of Transportation as follows:

Subject to the uncertainties of predicting the situation in the future, the goals sought to be achieved are as follows:

a. All employees of the Government of Italy, excepting personnel having senior diplomatic and military status, shall be required to carpool (to travel to and from work) whenever it is possible. The goal to be achieved is to obtain the average occupancy of not less than two persons per vehicle.

b. The maximum number of indoor parking spaces to be allocated to non-senior diplomatic and military employees will be not more than one-half the number of such employees. The Board finds that the applicant's detailed site plan shows vehicular access to the chancery from Broad Branch Road with the appropriate traffic controls as recommended by the DOT, in compliance with this condition.

k. In accordance with the plans submitted, there shall be no antenna constructed on the site other than for reception of local radio and television signals. In the event that the Government of Italy desires to construct some other type of antenna on the property, the plans for such antenna shall be subject to the approval of Board of Zoning Adjustment. The Board finds that the applicant's statement of intent, Exhibit No. 6 page 7 indicates its agreement to this condition.

l. All areas not devoted to buildings, structures, access drives and above-ground parking shall be appropriately landscaped so as not change the character of the area in accordance with the final detailed landscape plan presented to the Zoning Commission and marked as Sheet D10 of Exhibit 5. The Board finds that the landscape plan submitted is in compliance with this condition.

m. The stormwater management system, based on a fifteen year intensity storm, will be a combination of onsite retention systems, diversion structures and/or flow dissipators with controlled release to Broad Branch and its tributaries, so that the peak runoff from the developed site will not exceed the peak runoff of the existing site. Final plans and flow calculations as they pertain to impacts on parklands are subject to the approval of the National Park Service. The Board finds that the applicant's statement of intent indicates its agreement with this condition.

n. No site grading or other change in the existing character of the property, including removal of existing trees or vegetation, shall take place prior to approval of the detailed site plan by the Board of Zoning Adjustment. The Board finds compliance with this condition.

o. Approval of the application by the Zoning Commission and/or the Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia. The Board finds compliance with this condition.

p. The change of zoning shall not be effective until the recordation of the covenant required by Sub-section 7501.2 and completion of the Planned Unit Development process. The Board will require compliance with this condition.

q. The applicant may process the project through the Board of Zoning Adjustment in one or more stages. The Board shall specify appropriate time limits on the staging of development, if the process is to involve more than one stage. The PUD covenant applicable to the entire property shall be recorded prior to the issuance of permits for the first stage. The Board finds that the applicant has proposed the entire construction of the site in one stage, except for the previously described six single family dwellings.

6. The Office of Planning and Development, by report dated February 11, 1980, recommended that the application be approved. The OPD has reviewed the submitted documents and proposed plans in conjunction with the Zoning Commission Order and finds that the applicant has complied with all the conditions imposed in the Zoning Commission Order. The Board so finds.

7. There was no opposition to the application.

8. Advisory Neighborhood Commission - 3F made no recommendation on the application.

CONCLUSIONS OF LAW:

Based on the above findings of fact, the Board concludes that the subject application complies with the provisions of Zoning Commission Order No. 205. The Board further concludes that the subject application is in accord with the intent of Section 7501 of the Zoning Regulations in effect on the date the application was granted preliminary approval by the Zoning Commission. Accordingly, it is ORDERED that the application is GRANTED subject to the FOLLOWING CONDITIONS:

1. The applicant shall continue to comply with all of the requirements of Zoning Commission Order No. 283, dated June 14, 1979.

2. The development shall be constructed in accordance with the plans submitted to the Board and marked as Exhibit No. 14 of the record.

3. The Order of the Board shall be valid for a period of eighteen months. Within such period, the plans therefore shall be filed for the purpose of securing a building permit.

4. The Board shall retain jurisdiction to interpret and apply the terms and conditions of this Order and to make plan corrections and minor modification of such plans.

5. Prior to the issuance of any building permit, in accordance with the requirements of Sub-section 7501.2 and Paragraph 7501.52 of the regulations in effect prior to February 8, 1979, the owner of the property shall record a covenant in the land records of the District of Columbia acceptable to the Zoning Regulations Division and the Office of the Corporation Counsel. The applicant shall file a copy of that covenant with the Board and also with the Zoning Commission.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune, William F. McIntosh and Leonard L. McCants to GRANT; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 27 MAY 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO.205

CASE NO. 77-17P
FEBRUARY 9, 1978

Pursuant to notice a public hearing of the District of Columbia Zoning Commission was held beginning on October 17, 1977 and continued on November 3, 1977 and December 15, 1977. At these hearing sessions the Zoning Commission considered an application by the Government of the Republic of Italy for preliminary approval of a planned unit development.

FINDINGS OF FACT

1. The site of the proposed planned unit development is located at 2800 Albemarle Street, N.W., also known as 4400 Broad Branch Road, N.W., (Parcel 58/200 in Square 2248) known as the Firenze Estate. It is bounded on the north side by Albemarle Street; on the east by Broad Branch Road and Rock Creek Park; on the south by Soapstone Valley Park and the 25 acre estate known as "Hillwood"; and on the west by residences on Linnean Avenue. Rock Creek Park and Soapstone Valley Park are properties belonging to the United States Government.

2. The area of the subject site is approximately 21.7 acres.

3. The application also contemplates a change in zone from the R-1-A District to the R-5-C District.

4. The R-1-A District permits single family detached houses on minimum lots of 7,500 square feet with a maximum height of forty feet. The R-5-C District normally permits general residential uses, including single family dwellings, flats and apartments, to a height of ninety feet and a floor area ratio of 3.5. Under the controls of the PUD, the applicant is proposing to limit development of the site to the height and bulk standards of the R-1-A District.

5. The site is improved with a large single family residence currently being used as the embassy of the Republic of Italy, a use permitted as a matter-of-right. The majority of the site is undeveloped and wooded, with a cleared and generally level area at its center. The site slopes downward

from west to east toward Rock Creek Park and from north to south toward Soapstone Valley Park. The high point is at elevation 211 at the northwest corner of the site near Albemarle Street; the low point is at elevation 70 at the southeast corner of the site at Broad Branch Road.

6. The preliminary application proposes the construction of a new chancery on not more than six acres of the entire 21.7 acre site in order to consolidate all the present offices of the Italian Government in one building located on land already owned by the Italian Government. The present Embassy of the Republic of Italy is already located on the subject site.

7. There are a number of existing embassies and chanceries in the area. They include facilities of the governments of Hungary, Czechoslovakia and Indonesia in an enclave on Tilden Street and Linnean Avenue; the Netherlands on Linnean Avenue and Upton Street, N. W.; Kuwait and Zaire on Tilden Street; Spain on Tilden Street and Connecticut Avenue; Paraguay on Broad Branch Road; New Zealand on 32nd and Ellicott Street; and Malaysia in the 2700 block of Albemarle Street, N.W., opposite the subject site. Other nearby non-residential uses in the area include the Carnegie Institute of Washington, The Howard University Law School, and the Merryweather-Post Foundation, Museum of Russian Imperial Art and Eighteenth Century Furniture on the Hillwood Estate.

8. The application proposes the construction of the chancery in the center of the site on the area which is generally level and not now covered with trees. The chancery site is located at least 200 feet away from all lot lines of the property owned by the Government of Italy, is heavily screened in all seasons by wooded area which include many larger trees and cannot be seen from outside the property by the public.

9. The chancery would be designed for a maximum of 130 persons, more than the immediate needs of the Italian Government. The proposed chancery will be no more than three stories above grade, with the height estimated at approximately twenty-five feet above grade. The top of the building thus, will be below the elevation of the entrance to the property on Albemarle Street. The proposed chancery building will contain not more than 80,000 square feet of gross floor area, resulting in a floor area ratio of approximately 0.35 for the area proposed to be zoned for chancery purposes. This would be far less than the 4.0 maximum permitted in the R-5-C District and also

less than the 0.4 maximum permitted in R-1-A. The proposed lot occupancy will be approximately thirty per cent of the area proposed to be zoned for chancery purposes, far less than the maximum of seventy-five per cent permitted in the R-5-C District and less than the forty per cent maximum in R-1-A.

10. The application also proposes that, at some time in the future, the Government of Italy may construct up to six single family residences on the embassy portion of the site for use as housing for diplomatic personnel and guests. Such houses would conform to the standards of the R-1-A District.

11. The application proposes to provide a minimum of forty parking spaces within the chancery building. Additional above-ground visitor parking spaces will be provided, all to be screened and not visible from any public property or street. In addition, there will be over fifty screened and hidden parking spaces available when necessary on the access road between the chancery and Broad Branch Road.

12. The United States Government has an international obligation under Article 21 of the Vienna Convention on diplomatic relations to facilitate the acquisition by foreign states "of premises necessary for its mission". The construction of the proposed chancery will allow the Government of Italy to consolidate in one modern building at a site already owned and used by the Government of Italy all the activities presently conducted in four different locations within the District.

13. Consolidation of operations is required to permit a more efficient and effective performance of the Italian Government mission to the United States, and would benefit the Government of Italy, the United States Government and the District of Columbia.

14. The site has access to both Albemarle Street and Broad Branch Road. Albemarle Street is designated as a collector street between Connecticut Avenue and Linnean Avenue, and a local street from Linnean Avenue eastward. Except for the portion east of 28th Street, the roadway width is thirty feet. Broad Branch Road is designated as a collector street with a roadway width of twenty-two feet.

15. The traffic generated by the proposed development would not adversely impact the area and Broad Branch Road can adequately and effectively handle all the traffic generated by the proposed chancery development.

16. Development of the site under the Planned Unit Development as proposed would result in a lower level of development and a lesser amount of traffic in comparison with full development of the site for single family homes under the standards of the R-1-A District.

17. The Municipal Planning Office, by report dated October 12, 1977 and by testimony presented at the hearing, recommended that the Zoning Commission approve the preliminary application for a Planned Unit Development, on the grounds that the site is appropriate for chancery development as a PUD and that the site is large enough that a suitable site plan can be developed at the final stage which will insure adequate buffering of the proposed development from surrounding uses. The Commission so finds.

18. The Department of Environmental Services, by memorandum dated September 26, 1977, reported and the Commission finds that water and sanitary sewer lines at present appear adequate to service the site and that the proposed planned unit development should have no significant impact on air quality and noise in the surrounding area.

19. The Department of Transportation, by memorandum dated October 12, 1977 and by testimony at the hearing, reported and the Commission finds that the application would not result in an unacceptable traffic impact. The Department recommended that Broad Branch Road be utilized to provide both ingress and egress for the proposed chancery development. The Department of Transportation further found that the use of Broad Branch Road for chancery traffic would guard against encroachments on local streets and would be preferable to use of Albemarle Street, although the Embassy would continue to use the Albemarle Street entrance and in times of emergency it would be usable by Chancery workers. The Department suggested the installation of a signal at the Chancery driveway as a feasible measure to control traffic.

20. There was no report from the National Capital Planning Commission. However, the Municipal Planning Office reported on the status of the Foreign Missions and International Agencies element of the Comprehensive Plan, which was adopted on October 6, 1977, after the date of the filing of the planned unit development. The resolution which adopted that element contains a clause which states that the element will not apply to those facilities for which an application had been filed with and a public hearing granted by the Zoning Commission.

The adopting resolution further states that the location of such a chancery "shall be deemed to be not inconsistant with the Foreign Missions and International Agencies element of the Comprehensive Plan within the meaning of Section 2 of the Act of June 2, 1938, as amended by Section 492(b) of the Home Rule Act." This application was filed on June 6, 1977 and was set for public hearing on July 14, 1977, prior to the adoption of the Foreign Missions element.

21. Advisory Neighborhood Commission 3F, by resolution adopted on October 6, 1977 and by testimony presented at the hearing, opposed the application on the grounds that the Forest Hills area is exclusively a quiet residential area and on the grounds that the proposed chancery is in violation of the National Capital Planning Commission plan element. The Zoning Commission notes, as set out above, that there are many other facilities of foreign governments in this area, and that there are also other non-residential uses in this area. The Zoning Commission finds that the development proposed for this site will be extensively buffered and set back from surrounding property and that the impact from the proposed chancery development will be less than that from full development of the site under the standards of the R-1-A District. As to the NCPC Plan, as cited above, the Foreign Missions element is not applicable to this application. The NCPC was clearly aware of this pending PUD at the time of the adoption of the plan element, and the wording of the adopting resolution was clearly directed at this application among others.

22. There was other opposition to the application, from the Forest Hills Citizens Association, and individual residents of the area. The opposition was based primarily on the grounds that traffic impact on residential streets would be unacceptable, and on the grounds that the property should be reserved for residential use under the R-1-A zoning. The Zoning Commission finds that conditions can be imposed on the application on both accounts so as to reduce the objectionable features of the application and make it less obtrusive than development of the site under R-1-A zoning.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.

2. The development of this planned unit development carries out the purposes of Article 75 to encourage the development of well-planned residential and institutional developments which will offer a variety of building types with more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.

3. Approval of the Application would be consistent with the purposes of the Zoning Act "to promote such distribution of land uses as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity and recreational, educational and cultural opportunities and as would tend to further economy and efficiency of supply of public services."

4. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding community.

5. The approval of the Application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Maps of the District of Columbia.

6. The Application is not inconsistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital.

DECISION

The Zoning Commission is of the opinion that it is appropriate for the Republic of Italy to locate its chancery at the subject site, provided that the development should be controlled to insure that it will not have unacceptable negative effects. It is therefore ORDERED that the application for preliminary approval of a Planned Unit Development for Parcel 58/200 in Square 2248 be GRANTED subject to the following guidelines, conditions and standards:

1. An application for R-5-C zoning shall accompany the application for final approval of the Planned Unit Development, with the area requested for rezoning limited to the minimum acreage required to support the proposed building.

2. The final application for the Planned Unit Development shall include the entire 21.7 acre Firenze Estate.

3. The property shall be for the exclusive use of the Government of Italy for its embassy, chancery, and other government offices including associated supporting and accessory uses.

4. The existing Firenze Estate house shall be retained for embassy use only.

5. The Government of Italy may construct up to six single family dwellings which conform to R-1-A standards on the property.

6. The maximum height of all buildings and structures shall be limited to forty feet, as measured from the finished grade in front of the chancery, but in no event shall the height of the building exceed forty-five feet above the adjacent finished grade surrounding the chancery. The applicant shall include with the final application a detailed breakdown of space by use and square feet.

7. The gross floor area in the chancery shall not exceed 80,000 square feet.

8. The maximum percentage of lot occupancy for the chancery structure shall not exceed forty percent of that part of the site zoned R-5-C.

9. Parking shall be provided in the chancery structure at a rate of one space for each 800 square feet of gross floor area devoted to chancery use. Surface parking shall be confined to appropriately screened locations, and shall not exceed 100 spaces. The total number of spaces shall not exceed 150.

10. Vehicular access to the chancery shall be from Broad Branch Road with appropriate traffic controls as recommended by the Department of Transportation.

11. The applicant shall submit a general landscape plan along with the application for final approval of the PUD. All areas not devoted to buildings, structures, access drives, and above ground parking shall be appropriately landscaped so as to adequately buffer adjacent residential areas.

12. No site grading or other change in the existing character of the property shall take place prior to approval of the final application by the Zoning Commission.

13. The applicant shall prepare and implement a transportation plan for employees to reduce the number of vehicle trips to the new chancery. Among strategies and actions which should be considered are: car and van pooling, shuttle service to the Metrorail station being built at Van Ness Street and Connecticut Avenue when that station comes into operation, and adjustment of employee work hours to move them away from peak traffic hours.

Vote of the Commission taken at the public meeting on January 12, 1978: 4-1 (Walter B. Lewis, John G. Parsons Ruby B. McZier and George M. White to approve with CONDITIONS, Theodore F. Mariani opposed).

THEODORE F. MARIANI
Chairman

STEVEN E. SHER
Exeuctive Director

This Order was adopted by the Zoning Commission at its public meeting held on February 9, 1978 by a vote of 4-0 (Walter B. Lewis, John G. Parsons and Theodore F. Mariani to adopt, Ruby B. McZier to adopt by proxy, George M. White not present, not voting).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this Order is effective on 10 FEB 1978.

Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 283
CASE NO. 78-30/77-17F
JUNE 14, 1979

Pursuant to notice, a public hearing was held on March 19, 1979 to consider the final application for a Planned Unit Development and related zone change filed by the Government of the Republic of Italy.

FINDINGS OF FACT

1. This is an application for final approval under Article 75 of the Zoning Regulations for a Planned Unit Development (PUD), which involves a change of zoning from R-1-A to R-5-C for Parcel 58/200 in Square 2248. The site is known as the Firenze Estate located at 2800 Albemarle Street, N.W., also known as 4400 Broad Branch Road, N.W., comprising approximately 21.7 acres.

2. The site is improved with a large single family residence currently being used as the embassy of the Republic of Italy, a use permitted as a matter-of-right. The majority of the site is undeveloped and wooded, with a cleared and generally level area at its center. The site slopes downward from the west to east toward Rock Creek Park and from north to south toward Soapstone Valley Park. The hight point is at elevation 211 at the northwest corner of the site near Albemarle Street; the low point is at elevation 70 at the southeast corner of the site at Broad Branch Road.

3. The Zoning Commission granted preliminary approval to the PUD by Order No. 205, dated February 9, 1979. The Commission specified guidelines, conditions and standards in that order which governed the use, height, bulk, density and design of the site.

4. The R-1-A District permits single family detached houses on minimum lots of 7,500 square feet with a maximum height of forty feet. The R-5-C District normally permits general residential uses, including single family dwellings, flats and apartments, to a height of ninety feet and a floor area ratio of 3.5. Under the controls of the PUD, the applicant is proposing to limit development of the site to the height and bulk standards of the R-1-A District.

5. The applicant proposes the construction of a new chancery on approximately 3.4 acres of the entire 21.7 acre site in order to consolidate all the present offices of the Italian Government in one building located on land already owned by the Italian Government. The present Embassy of the Republic of Italy is already located on the subject site.

6. The chancery would be designed for a maximum of 130 persons, more than the immediate needs of the Italian Government. The proposed chancery will be no more than three stories above grade, with the height estimated at approximately twenty-five feet above grade. The top of the building will be below the elevation of the entrance to the property on Albemarle Street. The proposed chancery building will contain not more than 80,000 square feet of gross floor area, resulting in a floor area ratio of approximately 0.35 for the area proposed to be zoned for chancery purposes. This would be far less than the 4.0 maximum permitted in the R-5-C District and also less than the 0.4 maximum permitted in R-1-A. The proposed lot occupancy will be approximately thirty per cent of the area proposed to be zoned for chancery purposes, far less than the maximum of seventy-five per cent permitted in the R-5-C District and less than the forty per cent maximum in R-1-A.

7. The application proposes the construction of the chancery in the center of the site on the area which is generally level and not now covered with trees. The chancery site is located at least 200 feet away from all lot lines of the property owned by the Government of Italy, is heavily screened in all seasons by wooded areas which include many large trees and cannot be seen from outside the property by the public.

8. There are a number of existing embassies and chanceries in the area. They include facilities of the governments of Hungary, Czechoslovakia and Indonesia in an enclave on Tilden Street and Linnean Avenue; the Netherlands on Linnean Avenue and Upton Street, N.W.; Kuwait and Zaire on Tilden Street; Spain on Tilden Street and Connecticut Avenue; Paraguay on Broad Branch Road; New Zealand on 32nd and Ellicott Streets; and Malaysia in the 2700 block of Albemarle Street, N.W., opposite the subject site. Other nearby non-residential uses in the area include the Carnegie Institute of Washington, The Howard University Law School, and the Merryweather-Post Foundation Museum of Russian Imperial Art and Eighteenth Century Furniture on the Hillwood Estate.

9. The application also proposes that, at some time in the future, the Government of Italy may construct up to six single family residences on the embassy portion of the site for use as housing for diplomatic personnel and guests. Such houses would conform to the standards of the R-1-A District.

10. The application proposes to provide eighty-five parking spaces within the chancery building. Forty additional aboveground visitor parking spaces will be provided, all to be screened and not visible from any public property or street. In addition, there will be over fifty screened and hidden parking spaces available when necessary on the access road between the chancery and Broad Branch Road.

11. The United States Government has international obligation under Article 21 of the Vienna Convention on diplomatic relations to facilitate the acquisition by foreign states "of premises necessary for its mission". The construction of the proposed chancery will allow the Government of Italy to consolidate in one modern building at a site already owned and used by the Government of Italy all the activities presently conducted in four different locations within the District.

12. Consolidation of operations is required to permit a more efficient and effective performance of the Italian Government mission to the United States, and would benefit the Government of Italy, the United States Government and the District of Columbia.

13. The site has access to both Albemarle Street and Broad Branch Road. Albemarle Street is designated as a collector street between Connecticut Avenue and Linnean Avenue, and a local street from Linnean Avenue eastward. Except for the portion east of 28th Street, the roadway width is thirty feet. Board Branch Road is designated as a collector street with a roadway width of twenty-two feet.

14. The traffic generated by the proposed development would not adversely impact the area and Broad Branch Road can adequately and effectively handle all the traffic generated by the proposed chancery development.

15. Development of the site under the Planned Unit Development as proposed would result in a lower level of development and a lesser amount of traffic in comparison with full development of the site for single family homes under the standards of the R-1-A District.

16. In granting preliminary approval to the Planned Unit Development application, the Zoning Commission established guidelines, conditions and standards to be applicable to the final application. As to those guidelines, conditions and standards, the Commission finds as follows:

A. An application for a change of zoning from R-1-A to R-5-C was filed with the final application.

B. The final Planned Unit Development application includes the entire 21.7 acre Firenze Estate. The area to be rezoned from R-1-A to R-5-C comprises 3.41919 acres.

C. The property shall be for the exclusive use of the Government of Italy for its embassy, chancery, and other government offices including associated supporting and accessory uses.

D. The existing Firenze Estate house shall be retained for embassy use only.

E. The Government of Italy continues to propose the possible construction of single family dwellings on the property. The final application did not show the specific location or design of such houses, which may never be constructed. The dwellings would conform to the standards of the R-1-A District, and thus could now be constructed as a matter-of-right. The Commission finds that such dwellings should be reviewed by the Board of Zoning Adjustment as part of the further processing of the PUD, in order to insure their compatibility with the remainder of the site and their surroundings.

F. The maximum height does not exceed forty feet as measured from the finished grade in front of the chancery. At no point does the height exceed forty-five feet from the adjacent finished grade surrounding the chancery. The majority of the building is less than twenty-eight feet in height.

G. The gross floor area is approximately 42,770 square feet, far less than the 80,000 square feet permitted.

H. The percentage of lot occupancy for the chancery is 13.46 per cent of the area to be zoned R-5-C, less than the forty per cent permitted.

I. Fifty-four parking spaces are required. Eighty-five indoor and forty outdoor spaces are provided, for a total of 125 spaces.

J. Vehicular access to the chancery is from Broad Branch Road. The applicant has conferred with the Department of Transportation, and has included driveway access and other appropriate traffic controls satisfactory to the Department.

K. The applicant submitted a general landscape plan along with the application for final approval of the PUD. All areas not devoted to buildings, structures, access drives, and above ground parking will be appropriately landscaped so as to adequately buffer adjacent residential areas.

L. No site grading or other change in the existing character of the property has taken place.

17. The Department of State, by testimony presented at the hearing, stated its strong support for the application and requested that the Zoning Commission approve the application.

18. The Office of Planning and Development, by report dated May 1, 1979, and by testimony at the hearing on the final application, confirmed that the applicant has complied with all the conditions set forth by Zoning Commission Order No. 205, granting preliminary approval for the PUD.

19. The Department of Transportation, by memorandum dated October 12, 1977 and by testimony at the hearing, reported and the Commission finds that the application would not result in an unacceptable traffic impact. The Department recommended that Broad Branch Road be utilized to provide both ingress and egress for the proposed chancery development. The Department further found that the use of Broad Branch Road for chancery traffic would guard against encroachments on local streets and would be preferable to use of Albemarle Street. The Embassy would continue to use the Albemarle Street entrance and in times of emergency that entrance would also be usable by chancery workers. The Department suggested the installation of a signal at the chancery driveway as a feasible measure to control traffic.

20. Advisory Neighborhood Commission 3-F, within which the property is located, by letter marked as Exhibit No. 18 of the record, endorsed the application, provided the Commission added the following conditions:

(a) That the construction of any of six single family dwellings which conform to R-1-A standards on the property be made subject to the requirement that the Government of Italy submit an application to the Zoning Commission, for which there shall be notice and a hearing, whether it be an amended PUD or a further proceeding.

(b) That vehicular access to the chancery will be from Broad Branch Road, and that the gates which prevent access from Albemarle Street to the chancery will be kept locked at all times, except to permit access by emergency vehicles and by visitors during national holidays and for evening functions.

(c) That any future plans for antennas or other roof structures be submitted for approval to the Board of Zoning Adjustment or to the Zoning Commission if it assumes review authority.

(d) That the proposals in the Transportation Plan be implemented.

21. The Commission is required by statute to give "great weight" to the issues and concerns of the Advisory Neighborhood Commission. All of the concerns of the ANC have been met in conditions in this final order.

22. At the public hearing, the Zoning Commission requested the applicant to resolve the question of how storm water drainage would be handled. Representatives of the applicant met with representatives of the National Park Service and agreed on how the runoff would be controlled. Such agreement is incorporated in the condition of this order.

23. The proposed action was referred to the National Capital Planning Commission under the terms of the District of Columbia Government and Governmental Reorganization Act and the National Capital Planning Commission reported that the PUD with the guidelines, standards and conditions as proposed by the Zoning Commission will not have an adverse impact on the interests or functions of the Federal Establishment within the National Capital and is deemed to be not inconsistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital in accordance with the resolution adopted by the Planning Commission on October 6, 1977 adopting such element.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.

2. Approval of this final application and change of zone from R-1-A to R-5-C is in conformity with the entirety of the District of Columbia zoning plan as embodied in the District of Columbia.

3. The Commission takes note of the postion of the Advisory Neighborhood Commission and in its decision has accorded to the ANC the "great weight" to which it is entitled.

4. The final application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding community.

5. The final application is not inconsistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders APPROVAL of the final application for a Planned Unit Development and adoption of a change in zoning from R-1-A to R-5-C for Parcel 58/200 in Square 2248, located at 2800 Albemarle Street and Broad Branch Road, N.W., comprising approximately 21.7 acres. The application will be subject to the following conditions:

1. The Planned Unit Development shall include the entire 21.7 acre Firenze Estate. The area to be rezoned from R-1-A to R-5-C shall comprise 3.41919 acres, and shall be as shown on the plan marked as Sheet D6 of Exhibit 5 of the record.

2. The property shall be for the exclusive use of the Government of Italy for its embassy, chancery, and other government offices including associated supporting and accessory uses.

3. The existing Firenze Estate house shall be retained for embassy use only.

4. The Government of Italy may construct up to six single family dwellings, which conform to the standards of the R-1-A District, on the property. The location and design of such dwellings shall be reviewed by and receive the prior approval of the Board of Zoning Adjustment in accordance with the provisions of Sub-section 7501.4 of the Zoning Regulations in effect on the date this application was filed.

5. The final design of the complex shall be based on the plans presented to the Zoning Commission with the final application, marked as Exhibit No. 5 of the record.

6. The maximum height of all buildings and structures shall be limited to forty feet, as measured from the finished grade in front of the chancery, but in no event shall the height of the building exceed forty-five feet above the adjacent finished grade surrounding the chancery.

7. The gross floor area in the chancery shall not exceed 80,000 square feet.

8. The maximum percentage of lot occupancy for the chancery structure shall not exceed forty percent of that part of the site zoned R-5-C.

9. Parking shall be provided in the chancery structure at a rate of one space for each 800 square feet of gross floor area devoted to chancery use. Surface parking shall be confined to appropriately screened locations, and shall not exceed 100 spaces. The total number of spaces shall not exceed 150.

10. Vehicular access to the chancery shall be from Broad Branch Road, with the location and provision of such access as determined in conjunction with and approved by the D.C. Department of Transportation, all as shown on Sheet D9 of Exhibit 5 of the record. The two gates, shown on Sheet 9D, which restrict access from Albemarle Street to the chancery shall be kept locked at all times, except to permit access for emergency vehicles and by visitors during national holidays and for evening functions. The applicant shall follow its Transportation Plan for car-pooling as submitted to the Zoning Commission and approved by the Department of Transportation as follows:

Subject to the uncertainties of preducting the situation in the future, the goals sought to be achieved are as follows:

a. All employees of the Government of Italy, excepting personnel having senior diplomatic and military status, shall be required to carpool (to travel to and from work) whenever it is possible. The goal to be achieved is to obtain the average occupancy of not less than two persons per vehicle.

b. The maximum number of indoor parking spaces to be allocated to non-senior diplomatic and military employees will be not more than one-half the number of such employees.

11. In accordance with the plans submitted, there shall be no antenna constructed on the site other than for reception of local radio and television signals. In the event that the Government of Italy desires to construct some other type of antenna on the property, the plans for such antenna shall be subject to the approval of Board of Zoning Adjustment.

12. All areas not devoted to buildings, structures, access drives and above-ground parking shall be appropriately landscaped so as not to change the character of the area in accordance with the final detailed landscape plan presented to the Zoning Commission and marked as Sheet D10 of Exhibit 5.

13. The stormwater management system, based on a 15-year intensity storm, will be a combination of onsite retention systems, diversion structures and/or flow dissipators with controlled release to Broad Branch and its tributaries, so that the peak runoff from the developed site will not exceed the peak runoff of the existing site. Final plans and flow calculations as they pertain to impacts on parklands are subject to the approval of the National Park Service.

14. No site grading or other change in the existing character of the property, including removal of existing trees or vegetation, shall take place prior to approval of the detailed site plan by the Board of Zoning Adjustment.,

15. Approval of the application by the Zoning Commission and/or the Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia.

16. The change of zoning shall not be effective until the recordation of the covenant required by Sub-section 7501.2 and completion of the Planned Unit Development process.

17. The applicant may process the project through the Board of Zoning Adjustment in one or more stages. The Board shall specify appropriate time limits on the staging of development, if the process is to involve more than one stage. The PUD covenant applicable to the entire property shall be recorded prior to the issuance of permits for the first stage.

Vote of the Commission taken at the public meeting held on May 10, 1979: 3-0 (Walter B. Lewis, John G. Parsons and Ruby B. McZier to approve with conditions, Theodore F. Mariani and George M. White not present not voting).

Ruby B. McZier
RUBY B. McZIER
Chair
Zoning Commission

STEVEN E. SHER
Executive Director
Zoning Secretariat

This Order was adopted by the Zoning Commission at its public meeting held on June 14, 1979 by a vote of 5-0 (Walter B. Lewis, John G. Parsons, Theodore F. Mariani, Ruby B. McZier and George M. White to adopt).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, the amendment to the Zoning Map is effective on __________________.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13313, of the Government of Venezuela, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1) for a proposed addition (car port) to the Embassy building in an R-1-A District at the premises 2712 - 32nd Street, N.W., (Square 2119, Lots 16 and 17).

HEARING DATE: July 30, 1980
DECISION DATE: September 3, 1980

FINDINGS OF FACT:

1. The subject property is located in an R-1-A District on the west side of 32nd Street between Woodland and Normanstone Drives, N.W. The west side of the property abuts Normanstone Parks.

2. The subject property is improved with a two story plus basement detached single family dwelling used as an Embassy by the Government of Venezuela.

3. The subject property is irregularly shaped. The Embassy building is generally oriented east-to-west on the property. There is an existing driveway on the north side of the property that leads from 32nd Street to a paved area large enough for three cars. Along the northern and northwestern sides of the property there is an existing stone retaining wall. The area between the building and the stone wall is paved.

4. The applicant proposes to construct a carport over the three existing parking spaces. Three sides of the carport would abut the house and the existing stone retaining wall. The front of the carport, which faces the street would be open.

5. The carport will be constructed of materials to match the materials of the existing building, which is brick with a slate roof and copper flashing. The roof of the carport will be constructed from translucent white corrugated fiberglass.

6. The south side of the carport abuts a portion of the north side lot line of the property. There is thus no side yard provided for that portion of the carport. The regulations for an R-1-A District require an eight foot side yard. The applicant therefore requests a variance to provide no side yard.

7. The property is located in an area of steep slopes. The rear of the lot slopes sharply down toward Normanstone Park. The adjoining house to the northeast is located at a substantially higher elevation than the subject property.

8. The topography of the area is such that the carport will not be readily visible from the street or from adjoining properties.

9. The topography of the site is also such that there is no other feasible location on the property to construct the carport.

10. There was formerly a garage located in the building adjacent to where the carport is proposed to be located. That area was converted to a dining room to serve the family of the ambassador. The main dining room of the house was too large to serve for informal dining purposes. The applicant proposes to use translucent material for the roof to allow light to penetrate the windows of the dining area, which would face on the carport.

11. The applicant desires to construct the carport to protect the official cars of the embassy from the weather.

12. Advisory Neighborhood Commission - 3C, by letter dated July 28, 1980, reported that the ANC did not oppose the application. The ANC was concerned about the appropriateness of the color and material of the proposed roof of the carport. The ANC recommended that the Board seek the advice of the Commission of Fine Arts before it takes final action on the case.

13. As to the issues and concerns of the Advisory Neighborhood, the Board, in finding of fact No. 8, has determined that the property is not readily visible from the street or adjorning properties. The applicant testified at the hearing and the ANC reported that the area where the carport is located is not within view of the adjacent private property. Furthermore, as viewed, from the street, the front of the carport is open and is set back approximately seventy-five feet from the street. As seen from the park, the carport is set in a corner of the property concealed by the house and the retaining walls.

As to the jurisdiction of the Commission of Fine Arts, the Board finds that the Department of Licenses, Investigations and Inspections had determined that there is no requirement for review by the Commission of Fine Arts. The Board notes that the applicant expressed a willingness to change the color of the material for the roof to grey or some other color more compatible with the existing building.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the topography of the site, the location and configuration of the existing dwelling and the presence of the existing retaining walls combine to create a practical difficulty for the applicant. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. As set forth in Finding of Fact No. 13, the Board has determined that review by the Commission of Fine Arts is not required. The Board concludes that the carport is so located and so designed that there will be no adverse impact from the design of the roof, and no useful purpose would be served by rejoining additional review of the proposed carport.

The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (Connie Fortune, Walter B. Lewis and Charles R. Norris to GRANT; William F. McIntosh to GRANT by PROXY; Leonard L. McCants not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: ____________________
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 6 OCT 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTLL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT"

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13361 of the Government of Indonesia, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.44 and Sub-section 4603.1 and 4605.2 and a variance from the court requirements (Sub-sections 4305.1 and 5305.1) for a proposed addition to a chancery in D/C-2-A and SP-1 Districts at the premises 2020 Massachusetts Avenue and 2025 P Street, N.W., (Square 95, Lots 4 and 6).

HEARING DATE: October 22, 1980
DECISION DATE: December 3, 1980

FINDINGS OF FACT:

1. In the notice of public hearing, dated September 19, 1980, this case was advertised in part for a special exception under Sub-section 7603.1 of the Zoning Regulations. This was an erroneous designation brought to the attention of the Board by counsel for the applicant. At the public hearing, the notice was corrected to request special exception relief under Sub-section 4603.1 instead of 7603.1.

2. The subject property consists of two lots which are bounded by P Street, 21st Street and Massachusetts Avenue, N.W. The property is located in both the Massachusetts Avenue and the Dupont Circle Historic Districts. The premises addresses are 2020 Massachusetts Avenue and 2025 P Street, N.W.

3. Surrounding uses to the subject property include the Embassy Row Hotel fronting on the north side of Massachusetts Avenue across from the subject property and the Fairfax Hotel on 21st Street across from the subject property. There are a mixture of other uses including non-profit offices, professional offices, embassy and Chancery use. The existing development along P Street is comprised of mixed residential and commercial uses. There are also a number of art galleries located on P Street.

4. The subject site is split-zoned D/C-2-A and SP-1. The frontage of the property on Massachusetts Avenue is located in the SP-1 zone and the frontage of P Street is located in the D/C-2-A zone. Most of the subject proposed addition will be located in the D/C-2-A zone district.

5. The subject Lot 4 is a through lot which extends from Massachusetts Avenue to P Street. The northern half of Lot 4, which fronts on Massachusetts Avenue, is an open area. The remainder of Lot 4, on which most of the new chancery annex will be constructed, is presently used by the Government of Indonesia as a parking area.

6. Lot 6 is improved with premises 2020 Massachusetts Avenue, N.W. which is also known as the Walsh Mansion. The Walsh Mansion is one of several Beaux Arts mansions built on Massachusetts Avenue between 1890 and 1930. Construction of the Walsh Mansion began in 1901. The Mansion is listed in the National Register of Historic Places as a Category II Landmark.

7. The Government of Indonesia purchased the Walsh Mansion for its chancery in 1951. Since that time the Government of Indonesia has spent several thousand dollars in preservation and restoration of the Mansion to its original state. The Chancery annex which is the subject of this application is part of that ongoing preservation and restoration effort.

8. The Walsh Mansion presently contains the offices of the Embassy's staff. It is not used as the Ambassador's residence. The hours of operation of the Chancery are from 9:00 a.m. to 5:00 p.m., Monday through Friday. The Chancery is closed for as many as twenty days during the year in observance of holidays. The present staff, including gardeners, cooks, and drivers, consists of approximately 100 people. Access to the existing building is from a carriage driveway on 21st Street. Access to the existing parking area is from P Street.

9. The Walsh Mansion is unable to accommodate the Embassy's needs. The floors of the existing building are designed for residential use and are overloaded by office files and office equipment. Some structural deterioration has been noted. Basement and attic space is now being used for offices. The Embassy requires storage space for its files and office equipment which is not available in the existing structure. The preservation of the Walsh Mansion is threatened as a result of this overcrowding condition.

10. It is for the purpose of alleviating overcrowded conditions that the Government of Indonesia proposes to construct its chancery annex. The proposed structure will have 15,713 square feet of gross floor area in office use, requiring under the Zoning Regulations, twenty parking spaces. The spaces will be provided in garage space underground. The annex will be forty-eight feet in height and have three stories above ground. Linkage to the Walsh

Mansion will be provided by a curvilinear enclosed connection which will result in the creation of courts that will not meet the minimum dimension of thirty feet as required under the Zoning Regulations. The existing open area along Massachusetts Avenue will be developed as the ceremonial entry court and will be paved and landscaped. The entry court will provide permanent space for the parking of two official vehicles. The building design and location will preserve the view from Massachusetts Avenue of the Walsh Mansion.

11. The annex will house an estimated average staff of forty persons presently housed in the existing building. There will be no increase in the number of employees and the hours of operation will remain the same. There will be offices in the annex for the Ambassador, his deputy and the political, information, and communications staff. The annex will also provide space for library activities, displays and an information center.

12. The limitation of the building height as proposed to less than the maximum permitted will result in a building compatible with the height of surrounding structures.

13. The Embassy of Indonesia presently has twenty-eight official vehicles of which four are vans. There are an additional fifteen vehicles used for commuting by local employees of the Embassy. The applicant testified that it will embark upon a program to reduce the amount of automobile usage.

14. Under the criteria of Paragraph 4603.25, there are 15,713 square feet of gross floor area of office use, which requires twenty parking spaces. Twenty parking spaces will be provided in the underground garage with an additional two spaces available in the proposed entry court into the annex located on Massachusetts Avenue. Additional off-street parking is available for three cars in the driveway on the 21st Street side of the Chancery. There are also fifteen reserved street spaces for Embassy use. The proposed underground parking is in keeping with the character of the neighborhood.

15. A curb cut on Massachusetts Avenue will be provided for vehicular access to the entry court. The existing curb cut on P Street will be widened to eighteen feet to provide adequate access to the garage that will contain the underground parking spaces.

16. The proposed addition complies with the floor area and yard requirements of the Zoning Regulations, but not with the required minimum thirty foot width of court requirement. Accordingly, the applicant has requested variance relief from the court requirements on both the eastern and western portions of the site. The applicant has requested that no court be provided on the

western portion of the site and that it be permitted to provide a ten foot court on the eastern portion of the site.

17. On March 7, 1980, the Joint Committee on Landmarks reviewed the proposal, pursuant to D.C. Law 2-144, which then included a conceptual design of the chancery annex and a site plan showing a new curb cut on Massachusetts Avenue providing access to a ceremonial vehicular entrance with nine parking spaces on the existing side garden east of the Walsh Mansion. The recommendation of the Joint Committee was as follows:

> "The Joint Committee has no objection to the general concept of the proposed new construction in terms of height and mass and the minimal connection to the Historic Landmark Indonesian Embassy. However, the Committee questions the suitability of any parking on the side garden and requests the architect to study the possibility of accommodating all of the required parking underground. The Committee also requests the architect to make every effort to develop the P Street side of the building in a manner compatible with the row house architecture on that street. The Committee further recommends that, in designing the new building, the architect should strive to make it a background building with the architecture being as unassertive as possible, so as not to compete with the existing Indonesian Embassy."

Following several further reviews, the Joint Committe, on May 15, 1980, gave its general approval to a revised conceptual design with only three parking spaces for limousine use in the new vehicular entrance area and a landscape screen on its Massachusetts Avenue side which had been specifically requested by the Committee.

18. The attempt to preserve the existing structure and the need to preserve the open space surrounding that structure coupled with the need to provide additional office space for existing Embassy staff on a site located in a historic district imposes a unique situation with respect to development of the subject site and dictates design, size and location of the proposed chancery annex. In this instance, the applicant has developed a design which has been approved in concept by the Joint Committee on Landmarks and which calls for a ten foot court on the eastern portion of the property where the annex links up with the existing Walsh Mansion. In order to connect to the existing building in accordance with the stated desires of the Joint Committee on Landmarks and in a manner that is compatible with the existing building, the applicant is unable to provide a court on the western portion of the site in accordance with the zoning requirements. As to the

eastern portion of the site, there is a practical difficulty resulting from the need to provide ventilation to the underground garage and from the building configuration which has been recommended by the Joint Committee on Landmarks. Thus, applicant's practical difficulty in this case stems from the existence of a historic structure on a portion of the site coupled with the location of the site in a historic district and the implementation of the public policy of preservation of historic structures.

19. A representative of the United States Department of State, Mr. George Sealey of the Office of Protocol, submitted a statement and testified in support of the application.

20. Support of the application also was given by the North Dupont Circle Citizens Association.

21. At the time of the public hearing, the Office of Planning and Development was the only government agency prepared to go forward with its report and recommendation. Accordingly, the record was left open to permit the filing of other government agency reports, the written issues and concerns of ANC 2B and a landscaping plan prepared by the applicant's architect.

22. The report of the OPD recommended that the application be approved subject to a finding from the D.C. Department of Transportation that the proposed building will not generate objectionable parking conditions within the immediate area. In its recommendation, the OPD stated that the proposed addition is designed to allow more efficient working conditions for the existing staff and to provide better conditions for ceremonial functions. The OPD noted that the existing staff has been utilizing fully the existing surface parking on Lot 4 where the proposed addition is to be built. The OPD found that the proposed parking garage will accommodate approximately the same number of parking spaces that are now available as surface parking, but noted that although the requirements of the Zoning Regulations are presently satisfied, it should be pointed out that any future addition to the Chancery staff could generate additional needs for parking. As to the variance requests, the OPD reported that the need for a variance from the court requirements arises from the size and shape of the property. The Board concurs in the OPD report.

23. A representative of the D.C. Department of Transportation appeared at the public hearing and stated that the Department was unable to provide a recommendation because of a lack of information with regard to parking. Subsequent to the receipt of a parking plan from the applicant after the public hearing, the Department submitted its written report which supported the plan as being sensitive to District of Columbia transportation objectives but recommended that the Board require the applicant to submit more

definitive information as to how it would implement measures such as its proposed car/van pooling program and subsidization of transit use which the DOT felt necessary to achieve the parking plan objectives. The Board has evaluated the parking plan submitted with the applicant's prehearing statement, the D.C. DOT report, which includes modifications to the parking plan made by the applicant at that Department's request to further reduce the impact of automobile commuting by the Embassy's local employees, the testimony given by the applicant at the public hearing, and the concerns expressed by ANC 2B and the community. The Board accordingly finds that with the conditions imposed herein that the proposed use will not adversely impact traffic conditions.

24. The National Capital Planning Commission considered the application on November 13, 1980 and reported that the proposed use of 2025 P Street, N.W. as an addition to the Chancery of the Government of Indonesia is consistent with the Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital and will not have a negative impact on the federal establishment and federal interest of the National Capital. The Board so finds. The NCPC, however, expressed concern about the proposed curb cut on Massachusetts Avenue leading into the entry court and its possible impact on the Massachusetts Avenue and Dupont Circle Historic Districts. The NCPC further directed that its concern be conveyed to the Board and to the Joint Committee on Landmarks along with copies of the verbatim transcript of the Commission proceedings concerning this application. The Board has reviewed the Massachusetts Avenue entry court as requested by NCPC and finds no adverse impact on either historic district. However, a specific condition of this approval will be that the entry court be used for the parking of no more than two official vehicles at any given time.

25. In response to the concerns of NCPC, the Joint Committee on Land marks reconsidered its conceptual design for the proposed design on November 20, 1980 and voted to reaffirm its prior conceptual design approval.

26. A representative of the Dupont Circle Citizens Association supported the application. The Association noted that the parking in the entry court did not meet the dimensions for required parking under the Zoning Regulations. The Board finds that those spaces are not required parking under the Zoning Regulations and are therefore not required to be nine by nineteen. The Association further requested that the entry court area remain unpaved and that no trees be removed from the proposed entry court area. The Association also expressed a concern that the western portion of the site where a variance was requested might adversely affect neighboring property with repsect to light and air.

27. A neighboring property owner, who resides at 2033 P Street, N.W., objected to the application on the grounds that the annex would cause traffic and parking problems, and would cut off her light and air. As previously stated herein, the Board has found that the annex will not adversely affect existing traffic and parking. On the basis of the applicant's architect's detailed studies and diagrams, the Board finds no evidence that the relief requested in this application will adversely affect light and ventilation in the rear of the neighbor's property.

28. A representative of ANC 2B presented the preliminary written recommended of the ANC at the public hearing and subsequently presented those issues and concerns in writing by letter to the Board dated November 12, 1980. In its letter, the ANC expressed the following points:

a. The ANC confirmed the concerns it expressed in the preliminary written recommendation and oral testimony submitted for the record at the hearings on October 22, 1980, namely the adequacy of planned parking to meet the needs generated by the proposed use and the effect of the intrusion of the bulk of the proposed addition on the "architectural design and arrangement" of the neighborhood and the "harmony" with the existing uses and structures.

b. The ANC reiterated its concern that the request for variances from the court requirements of Sub-sections 4305.1 and 5305.1 failed to take cognizance of what the ANC characterized as the stricture of Sub-section 4305.1 "to ensure adequate light, view, movement of air and visual privacy" in respect of residential neighbors who, however much these values may have been compromised by earlier action of other neighbors, are entitled to the continuing protection of the Zoning Regulations.

c. The ANC could not recommend approval of the application on the grounds that the applicant refused to accept conditions that would minimize the impact of the loss of off-street parking.

d. The ANC recommended the following conditions in the event the Board determined to grant the relief sought:

(i) Adoption of the Embassy's proposal to preclude employee use of private automobiles for commuting and to confine available off-street parking to official Government of Indonesia vehicles.

(ii) Adoption of a landscaping plan to include a hedge along the fence proposed along Massachusetts Avenue frontage to the east of the present structure and tree in the "court yard" on the P Street property line as proposed in the architect's plans.

29. The Board is required to give great weight to the ANC issues and concerns. The Board in addressing the concerns of the ANC, the Dupont Circle Citizens Association and a neighbor finds that the evidence in the record clearly establishes that the granting of the requested variances will not adversely impact on the light, view, movement of air and visual privacy of residential neighbors. In approving this application, the Board is imposing conditions that will minimize the impact of the loss of off-street parking. The Board further will adopt the conditions requested by ANC 2B as to minimizing the impact of the loss of off-street parking.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant has met the requirements of Paragraph 4101.44 and Sub-sections 4603.1 and 4605.2 of the Zoning Regulations. The use, height, bulk and design will be in harmony with existing structures and uses, and will preserve the view of the Walsh Mansion from Massachusetts Avenue. Moreover, the architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood. Because of the limitation on the height of the proposed annex, it does not exceed maximum permitted heights and is compatible with the height of surrounding structures. The proposed use will not adversely impact on future traffic conditions. The annex will comply in all respects with the requirements for percentage of lot occupancy and FAR. The number of off-street parking spaces meets the requirement of one space for every 800 feet of gross floor area devoted to chancery use. Based on the above, the Board concludes that the proposed chancery is not incompatible with the present and proposed development of the neighborhood.

The applicant has also requested variances from Sections 4305.1 and 5305.1 of the Zoning Regulations. Based on the evidence, the Board concludes that the subject site is affected by an extraordinary or exceptional situation or condition for which strict application of the Zoning Regulations imposes a practical difficulty upon the applicant. The District of Columbia Court of Appeals has found that variance relief may be granted on the basis of the existence of a structure on the lot. Clerics of St. Viator, Inc. v. District of Columbia Board of Zoning Adjustment, 320 A.2d 291, 294 (D.C. App. 1974). Moreover, the extraordinary or exceptional condition necessary for a variance can be caused by subsequent events extraneous to the land itself. De Azcarate v. District of Columbia Board of Zoning Adjustment, 388 A.2d 1233, 1237 (D.C. App. 1978).

The site is within a historic district and improved with a large mansion listed in the National Register. The attempt to preserve the existing structure coupled with the need to provide additional office space for existing embassy staff on a site located in a historic district imposes a unique situation with respect to the development of the subject site and dictates design, size and location of the chancery annex. These considerations in combination with applicant's desire to implement a public policy of preservation of historic structures constitute a practical difficulty.

The Board further concludes that granting the special exception and the variance will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will be without detriment to the public good and without substantially impairment of the intent, purpose and integrity of the Zoning Regulations. The Chancery annex will not affect adversely the use of neighboring property in accordance with the Regulations and Maps and is located within the area indicated on the NCPC map for location of chancery facilities. Moreover, the annex is compatible with proposed development and existing development in the area. The applicant's proposal furthers the public interest in that it helps preserve an existing historic structure.

Under Sub-section 4604.3, the Board may require such special treatment and impose such reasonable conditions as it shall deem necessary to mitigate any adverse impacts identified in accordance with Sections 4603 and 4604. The Board concludes that it has given the great weight to the issues and concerns raised by the ANC. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The courtyard of the building facing Massachusetts Avenue is not to be used for the parking of automobiles or other vehicles, with the exception of the two parking spaces located at the rear of the courtyard as shown on the site plan marked as Drawing No. 1 of the plans marked as Exhibit No. 9 of the record.

2. The applicant shall comply with the provisions of its parking alternative plan as set forth in the letter from Counsel for the applicant to ANC-2B dated October 15, 1980, marked as applicant's Exhibit I of Exhibit No. 23 of the record.

3. The applicant shall landscape the property in accordance with the landscape plan marked as Exhibit No. 42 of the record.

VOTE: 5-0 (Walter B. Lewis, Douglas J. Patton, Connie Fortune, Charles R. Norris and William F. McIntosh to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 5 FEB 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 264
Case No. 78-20/76-28F
February 8, 1979

Pursuant to notice, a public hearing was held on December 18, 1978 to consider the final application for a planned unit development and related zone change filed by the Republic of France.

FINDINGS OF FACT

1. This is an application for final approval under Article 75 of the Zoning Regulations for a planned unit development (PUD), which involves a change of zoning from R-1-B to R-5-C for lot 802 in square 1320. The site is a portion of the Archbold Estate located at 3905 Reservoir Road, N. W., comprising approximately eight acres.

2. The site is currently vacant and undeveloped and is partially wooded. It is bounded by Reservoir Road on the south, Glover-Archbold Park on the west, and the major remaining portion of the Archbold Estate on the east and north.

3. The Zoning Commission granted preliminary approval to the PUD by Order No. 194, dated December 8, 1977. The Commission specified guidelines, conditions and standards in that order which governed the use, height, bulk, density and design of the site.

4. The R-1-B District permits single family detached houses on minimum lots of 5,000 square feet with a maximum lot occupancy of forty percent. The R-5-C District normally permits general residential uses, including single family dwellings, flats and apartments to a height of ninety feet and a floor area ratio of 3.5. Under the controls of the PUD, the applicant is proposeing to limit development of the site to the height and bulk standards of the R-1-B District.

5. The applicant seeks permission to develop a complex of

facilities including a chancery, consulate, offices for various attaches and services of the French Embassy, reception, exhibition and lecture halls, recreation areas, and related facilities.

6. The total development is designed to house 400 persons, more than the immediate needs of the French government. The total development would not exceed forty feet and three stories in height, would have a floor area ratio of .36, which is less than the 4.0 maximum permitted in R-5-C and less than the 0.4 maximum permitted in R-1-B under PUD, and would have a lot occupancy of twenty-seven per cent, less than the seventy-five per cent permitted in R-5-C and less than the forty per cent permitted in R-1-B.

7. There are several existing non-residential uses in the vicinity, including the Georgetown University complex across Reservoir Road to the south, the German chancery on Reservoir Road west of Foxhall Road and Western High School and its athletic field to the east across 39th Street. With the exception of the house on the Archbold Estate, there are no private residences within 200 feet of any boundary of the subject property.

8. The United States has an international obligation under Article 21 of the Vienna Convention on Diplomatic Relations to facilitate the acquisition by foreign states "of premises necessary for its mission." The construction of the proposed chancery complex will allow the government of France to concentrate in one location all the activities which are presently located in eleven locations Northwest Washington, and in New York City.

9. The only public street abutting the site is Reservoir Road, which is a four lane, secondary arterial type street. Through traffic movement on Reservoir Road is restricted to one lane in each direction by parked cars during off peak periods.

10. All areas not devoted to buildings, structures, access drives or above ground parking will be appropriately landscaped so as not to change the character of the area, in conformity with the landscape plan filed with the final application.

11. In granting preliminary approval to the planned unit development application, the Zoning Commission established guidelines, conditions and standards to be applicable to

the final application. As to those guidelines, conditions and standards, the Commissions finds as follows:

A. An application for a change of zoning from R-1-B to R-5-C was filed with the final application.

B. As already found herein, the property shall be for the exclusive use of the Government of France for its chancery and other government offices.

C. No building or structure exceeds forty feet in height. The roofline has been lowered in a number of locations by relocating mechanical equipment to the basement, as shown on the drawings as part of Exhibit 26 of the record. The design of building no. 1 near the western property line has been revised from the preliminary application to comply with the setback requirements.

D. The floor area ratio proposed is approximately 0.36, less than the 4.0 maximum specified.

E. The percentage of lot occupancy is approximately twenty-seven, less than the maximum of thirty per cent.

F. The final plans contain 618 parking spaces, within the range of 600 to 620 specified in the preliminary approval.

G. The applicant submitted a revised access plan for the driveway entrance from Reservoir Road. The entrance has been relocated to the west, reducing the number of trees to be cut and also necessitating minor changes in the design of the site in that area. The District of Columbia Department of Transportation approved the revised plan, as shown on exhibit 26-G of the record. Subsequent to the hearing, the applicant submitted a letter, marked as exhibit 32 of the record, containing a car-pooling program which had been agreed upon by the applicant and the Department of Transportation.

H. The applicant has reached an agreement with the National Park Service and the D. C. Department of Environmental Services with respect to storm water run-off. The agreement in principle is as follows:

" The storm water management system will be an on-site retention system with controlled release to the District system in Reservoir Road, so that the peak runoffs from the developed site will not exceed the peak runoff of the existing site. Final plans and specifications are subject to the approval of the Department of Environmental Services."

I. The applicant has submitted a general landscape plan, which preserves most existing wooded areas and some open meadow land in a natural state, and enhances portions of the site with plantings of various types.

J. No site grading or other change in the existing character of the property has taken place.

12. The Municipal Planning Office, by report dated December 14, 1978, and by testimony at the hearing on the final application, confirmed that the applicant has complied with all the conditions set forth by Zoning Commission Order No. 194, granting preliminary approval for the PUD, with the exception of a specific car-pooling/shuttle bus program.

13. The Department of Transportation, by memorandum dated October 13, 1977, and by testimony at the hearing on the preliminary application, reported that the application would not result in unacceptable traffic impacts. The Department developed a preliminary traffic circulation plan for Reservoir Road adjacent to the subject site. The plan involves dedication by the applicant of property along its frontage to allow for the reconstruction of Reservoir Road. The reconstruction will allow for the channelization of traffic, including a storage lane for left turns into the complex. Left turns into the Georgetown Medical/Hospital complex parking garage on the south side of Reservoir Road will also be accommodated. The Department advised that, subject to working out the details of the road improvements, Reservoir Road can handle the added traffic anticipated by the French Chancery complex, provided that the French agree to measures to reduce auto trips in and out of the site.

14. The applicant and the Department of Transportation have agreed on the goals to be sought with respect to car-pooling in 1981 or 1982 or later, when the construction of the proposed facilities are completed and the

representative of the French Embassy has stated the principles to be considered with respect to a possible shuttle bus program. The Department has confirmed that this condition of Order No. 194 has been fulfilled.

15. The Department of Environmental Services, by report dated June 13, 1977, reported that there are available water and sanitary sewer services in the subject area to accommodate the needs of the applicant. Storm sewer service in Reservoir Road is presently inadequate to handle the proposed development, necessitating the construction of additional sewer or the provision of on-site retention facilities. The Department of Environmental Services has confirmed that a satisfactory agreement regarding a storm water retention system has been reached between the Department, the applicant and the National Park Service.

16. Advisory Neighborhood Commission 3-B, within which the property is located, by testimony presented at the hearing confirmed by resolution received in the Zoning Secretariat on January 10, 1979, opposed the application on the following grounds:

    A. The required change in zoning from R-1-B to R-5-C is out of character with the neighborhood, which is primarily residential and the chancery would be a totally commercial enterprise.

    B. The City has previously designated specific areas for foreign chanceries located outside our Advisory Neighborhood Commission. We feel that the land should be more appropriately used for residential or park development.

    C. The present traffic plan is inadequate and basically non-existent and the addition of the chancery to this area would seriously aggravate the already existing traffic problems.

    D. The number of parking spaces was far in excess of the number needed to serve the employees and visitors of the French government.

17. Advisory Neighborhood Commission 3-A which is located on the south side of Reservoir Road, by report dated December 18, 1978 and by testimony presented at the public hearing stated that they in general oppose the entire request by the applicant on the basis that:

A. The zoning change request is in opposition to the local plans, policies, and zoning as well as the Fulbright Act.

B. The proposal will adversely affect the stability of the historic Georgetown neighborhoods.

C. Traffic congestion which is already a serious problem in the area will only become more of a problem.

18. The Burleith Citizens Association, by the testimony of its president Robert McFadden at the hearing and by statement dated December 18,1978, took a neutral position on the application because of the division of its membership on the application. The Association did express concern that the rezoning of the site not serve as a precedent for other changes in the area, and that traffic management and car-pooling plans be adopted to minimize additional traffic problems.

19. The Foxhall Community Citizens Association, by statement dated December 18, 1978, opposed the application on the grounds that the proposal would change the residential character of the neighborhood, create a precedent for increased commercial and high density residential use and would negatively impact on already existing traffic congestion in the area.

20. The Commission is required by statute to give "great weight" to the issues and concerns of the Advisory Neighborhood Commission. As to the issues raised by the ANC and the other parties and persons who appeared, the Commission finds as follows:

A. Even though the property will be rezoned R-5-C, the level of building bulk and development of the site will be limited to the standards of the R-1-B District. The height, floor area ratio, lot occupancy and other factors will all be kept below, in some cases well below, the present standards applicable to the property.

B. The Commission reviewed the potential impact of the project at the time of consideration of the concept of the development in the preliminary application. At that time, the Commission heard considerable testimony from both the applicant's traffic expert and the D. C. Department of Transportation, and in Order No. 194, dated December 8, 1977, which granted the preliminary application, the Commission found "Reservoir Road can effectively handle all the traffic generated by the proposed development."

C. The areas designated for chancery development by the Zoning Commission were based in large part upon the Foreign Missions element of the Comprehensive Plan, prepared by the National Capital Planning Commission. As found herein, the resolution of the Planning Commission which adopted that element clearly stated that the element did not apply to those facilities which were in process at the time. The French chancery application falls within that category.

D. After considerable testimony and discussion in the preliminary hearing case, the Commission in Order No. 194 concluded "it is appropriate for the Republic of France to locate its chancery in the subject square, provided that the development should be controlled to insure that it will not have unacceptable negative effects."

E. The Fulbright Act issues were fully raised and discussed by the Commission in the context of the Diplomatic District cases. The Commission finds that its action taken herein is not in opposition to the Fulbright Act.

F. The number of parking spaces was fully discussed in the preliminary application. The level of spaces was deliberately set at a much higher level than is necessary for employee parking in order to be able to completely accommodate on the site the parking needs of the French government for all its diplomatic reception activities. All of these spaces will be underground within buildings on the site, creating no greater environmental displacement of the site than if the parking were not provided at all. The government has agreed to apply a car-pooling programing to its employees, to reduce traffic impacts as far as possible and to discourage individual private use of automobiles for commuting purposes.

21. The resolution by the National Capital Planning Commission dated October 6, 1977 which adopted the Foreign Missions and International Agencies element of the Comprehensive Plan, contains a clause which states that the element will not apply to those facilities for which an application had been filed with the Zoning Commission and upon which a

public hearing had been granted, and that such facilities would be deemed not inconsistent with the Foreign Missions and International Agencies element. The application for preliminary approval was filed December 1978 and was set for hearing on March 24, 1977.

22. The proposed action was referred to National Capital Planning Commission under the terms of the District of Columbia Self-Government and Governmental Reorganization Act and the NCPC reported that the proposed map amendment and PUD will not have an adverse impact on the interests or functions of the Federal Establishment within the National Capital and is deemed not to be inconsistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital in accordance with the resolution adopted by the Planning Commission on October 6, 1977 adopting such element.

CONCLUSION OF LAW

1. The planned unit development process is an appropriate means of controlling development of the subject site.

2. Approval of this final application is appropriate, because it is generally consistent with the present character of the area and because it would encourage stability of the area.

3. Approval of this final application and change of zone from R-1-B to R-5-C is in conformity with the entirety of the District of Columbia zoning plan as embodied in the District of Columbia.

4. The Commission takes note of the position of the Advisory Neighborhood Commission and in its decision has accorded to the ANC the "great weight" to which it is entitled.

5. Approval of this final application for a planned unit development and change of zone from R-1-B to R-5-C is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 20, 1938 Stat. 797) as amended,

6. Approval of the application would be not inconsistent with the Foreign Missions and International Agencies element of the Comprehensive Plan.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby Orders approval of the final application for a planned unit development and adoption of a change in zoning from R-1-B to R-5-C for lot 802 in square 1320, located at 3905 Reservoir Road, N. W., comprising approximately eight acres. The application will be subject to the following conditions:

1. The property shall be for the exclusive use of the Government of France for its chancery and other government offices, including associated supporting and accessory uses.

2. The maximum height of all buildings and structures shall be limited to forty feet, to be measured from the grade in front of the building as shown on Exhibits 16-A and 16-B of the record regarding the preliminary application, exclusive of roof structures permitted under Section 3308. All buildings shall set-back from the property line at least the height of the building measured from the lowest point of the finished grade.

3. The maximum floor area ratio shall be 0.4.

4. The maximum percentage of lot occupancy shall be thirty per cent.

5. There shall be a minimum of 600 off-street parking spaces and a maximum of 620 off-street parking spaces.

6. Vehicular access shall be from Reservoir Road, with the location and provision of such access to be determined in conjunction with and approved by the D. C. Department of Transportation as shown on Exhibit No. 26-G of the record. The applicant shall follow a car-pooling plan as submitted to the Commission and approved by the Department of Transportation, as follows:

   Subject to the uncertainties of predicting the situation in 1981 or 1982 or later, the goals sought to be achieved for car-pooling are the following:

   A. 25% of the personnel of the Embassy to travel to and from work other than by private car (this to continue the situation now existing).

B. Senior diplomatic and military personnel not to be required to car-pool. All other personnel of the Embassy to be required to car-pool wherever it is possible. The result sought to be achieved is to be an average for such other personnel of not less than two persons per vehicle.

C. The total of all vehicles for such travel, including those of senior diplomatic and military personnel, not to exceed 200.

7. The final site plan shall be designed so as to satisfy the Department of Environmental Services concerning the collection and drainage of storm water run-off, so as to minimize other adverse environmental impact.

8. The applicant shall submit a detailed landscape plan along with the application for further processing of the PUD. All areas not devoted to buildings, structures, access drives and above ground parking shall be appropriately landscaped so as not to change the character of the area.

9. The final design of the complex shall be based on the plans presented to the Zoning Commission with the final application, marked as Exhibit No. 8 and 26 of the record.

10. No site grading or other change in the existing character of the property, including removal of existing trees or vegetation, shall take place prior to approval of the detailed site plan by the Board of Zoning Adjustment.

11. Approval of the application by the Zoning Commission and/or the Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia.

12. The change of zoning shall not be effective until the recordation of the covenant required by Sub-section 7501.2 and completion of the planned unit development process.

13. The applicant may process the project through the Board of Zoning Adjustment in one or more stages. The Board shall specify appropriate time limits on the staging of development, if the process is to involve more than one stage. The PUDcoovenant applicable to the entire property

shall be recorded prior to the issuance of permits for the first stage.

Vote of the Commission taken at the public meeting held on January 11, 1979: 4-0 (Walter B. Lewis, Theodore F. Mariani, Ruby B. McZier, and John G. Parsons, to grant , George M. White not present, not voting).

WALTER B. LEWIS
Chairman

STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on February 8, 1979 by a vote of 4-0 (Theodore F. Mariani, George M. White, Walter B. Lewis and Ruby B. McZier to adopt, John G. Parsons not present, not voting).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, the amendment to the Zoning Map is effective on

____________________.

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 294
CASE NO. 78-29
September 13, 1979

Pursuant to notice, public hearings of the District of Columbia Zoning Commission were held on March 26, and July 12, 1979 in Room 11-A at the District Building, 1350 E Street, N.W., Washington, D.C. At these hearing sessions, the Zoning Commission considered an application from the Government of Iran to amend the Zoning Map of the District of Columbia.

FINDINGS OF FACT

1. The application requests a change of zoning from R-1-A to D/R-1-A for lots 2, 9, and 821 in square 2145, located on the west side of the 2500 block of 30th Street, N.W. The site is approximately 62,150 square feet in area.

2. The existing R-1-A zoning permits single-family detached dwellings with a minimum lot area of 7500 square feet, a minimum lot width of seventy-five feet, a maximum lot occupancy of forty per cent, and a maximum height of three stories/forty feet. The proposed D/R-1-A District permits the same use and area standards described in the R-1-A District, and also permits chancery use up to a maximum floor area ratio (FAR) of 1.5 with a mandatory compatibility review by the Board of Zoning Adjustment (BZA).

3. The applicant requests the change of zoning to permit the existing building at 2500 - 30th Street, N.W. to be used as an annex to the existing chancery located on Massachusetts Avenue.

4. The site consists of three contiguous lots, numbered 2, 821 and 9. The middle lot, #821, is the only improved lot and contains a mansion-like structure known as 2500 - 30th Street, N.W. The house was formerly used as a single family dwelling, but has been vacant for some time.

5. The site abuts extensive park land and the Embassy and Chancery of the Union of South Africa to the north, the existing Embassy and Chancery of Iran to the west, and a residential property at 2520 - 30th Street to the east. Across 30th Street between Edgevale Terrace and Massachusetts Avenue are six properties; four of which are residences. The remaining two are occupied by the Embassies of Saudia Arabia and Sri Lanka.

6. The area is predominantly residential, and chancery-related in use. The chancery related uses are generally confined to the frontage along Massachusetts Avenue. The area off of Massachusetts Avenue is primarily residential in use.

7. The zoning pattern of the immediate surrounding area is R-1-A, R-1-B, D/R-1-A, and D/R-5-A.

8. The applicant, through counsel and by testimony presented at the public hearing, indicated that the existing building on the site was restored after the applicant acquired the property in 1975 and will be used for chancery purposes, subject to favorable action by the Zoning Commission. The top floor of the building at 2500 - 30th Street, N.W. would be used to accommodate approximately fourteen people and the first and second floors would be used for conferences or ceremonial activities.

9. The applicant testified that no additional buildings would be constructed on the site. Access to 2500 - 30th Street would be mainly from the existing embassy/chancery grounds. The entrance to the building on 30th Street would not be used either by vehicular or pedestrian traffic, except by the caretaker or for emergencies.

10. In the statement accompanying the application, the applicant stated that the chancery functions of the Government of Iran had increased beyond the level contemplated when the chancery on Massachusetts Avenue was constructed in 1960. The applicant also indicated that additional space was needed to relieve the overcrowded conditions in the existing chancery which had resulted from insufficient space.

11. Subsequent to the filing of the application, the Government of Iran changed. The representative of the applicant stated that it was the desire of the Government to proceed with the application. However, the applicant was unable to give any detailed information concerning the future use of the premises. The applicant indicated that because of the recent change of Government in Iran and consequential personnel changes, no definite plans have been developed. The applicant further indicated that the Government of Iran is currently consolidating offices in order to decrease expenditures.

12. The Commission finds that in this case there is insufficient evidence of the applicant's need for expanded chancery facilities to support an expansion of the Diplomatic District into the adjacent neighborhood.

13. The District of Columbia Office of Planning and Development (OPD) by memorandum dated 3-23-79 and by testimony presented at the public hearing, recommended denial of the application because the proposed extension of the "D" zone mapping into the residential area was excessive. The OPD indicated that the Zoning Commission in it's decision of September 14, 1978 established and mapped a new Diplomatic (D) District, pursuant to the adoption of the Foreign Missions and International Agencies Element of the Comprehensive Plan by the National Capital Planning Commission (NCPC). The purpose for the establishment of the "D" District was to permit the location of chanceries in certain areas of the city, with BZA approval. The OPD was not convinced that the Government of Iran could not accommodate its expansion needs in a new annex adjacent to its existing chancery, so that only Lot 9 would require D Zoning. This lot falls partially within the soft-edge area designated in the comprehensive plan element for embassies and chanceries. The OPD believed that an alternative solution utilizing this approach or other approaches should be explored, and that the present application be denied. The Commission concurs with the OPD that the applicant has not proven why the application should be granted.

14. The U.S. Department of State, by letter dated January 24, 1979 and by testimony presented at the public hearing, supported the application. The Department stated that the matter involves Federal interests related to the conduct of the U.S. foreign relations. The Department further stated that the proposed rezoning appears to be fully appropriate, does not create significant adverse impacts and meets approval. The Commission does not concur with the statement that the rezoning is fully appropriate, for the reasons stated in this Order.

15. The National Capital Planning Commission, at it's meeting held on March 8, 1979, as presented by testimony at the hearing, reported that the proposed rezoning will not be inconsistent with the Comprehensive Plan for the National Capital provided that (a) no additional buildings are permitted to be constructed on the site; (b) the property is screened from public view along 30th Street and along adjacent property lines (c) no vehicular access to the site is permitted from 30th Street and the existing vehicular entrance and driveway at 2500 - 30th Street, N.W., is limited to service and emergency use; and (d) all embassy and chancery traffic is required to enter and exit the site soley from Massachusetts Avenue. The applicant stated in the public hearing that the Government of Iran had no objection to these conditions. The Commission accepts the findings of the National Capital Planning Commission that the proposed rezoning would not be inconsistent with the Comprehensive Plan if certain conditions are met.

16. Advisory Neighborhood Commission - 3C, by letter dated January 29, 1979, by statement marked as Exhibit No. 30 of the record, and by testimony presented at the public hearing opposed the application because the proposal would extend the "D" District "into an exclusively residential community lying northeast of the present zone boundary of the D/R-1-A zone along Massachusetts Avenue, N.W." ANC-3C further opposed the OPD alternative proposal of rezoning the balance of lot 9 from R-1-A to D/R-1-A, and the NCPC's conditional recommendation.

17. Advisory Neighborhood Commission - 3C and the neighborhood residents represented by counsel challenged the jurisdiction of the Zoning Commission to hear and decide this case. Specifically, they allege that the Zoning Commission lacks jurisdiction to amend the Zoning Regulations and Map relating to chanceries, as adopted by Orders No. 236 and 237 dated September 14, 1978, because of the proscriptions against any new chanceries and chancery annexes in residential areas contained in the Chancery Act of 1964, D.C. Code Section 5-418(c).

The Commission has in the Statement of Reasons which accompanied Orders No. 236 and 237, already stated it's belief that the Diplomatic Districts does not conflict with the provisions of the Chancery Act.

18. The Advisory Neighborhood Commission also submitted a list of Supplemental Issues and Concerns, as part of the statement marked as Exhibit No. 30 of the record. Those issues and concerns included the present use of part of lot 9 for parking, the distinction between chancery and chancery annex, the level of non-permitted uses in the existing and proposed chancery, the level of traffic generated, and others.

19. Several residents and owners of property in the area of the subject site appeared as a party in opposition to the application and indicated that the existing building at 2500 - 30th Street, N.W. was already being used as a chancery. The citizens expressed concern that the parking lot at the rear of the existing chancery of Iran building was visible from 30th Street, that there were florescent lights installed in the top floor of the building at 2500 - 30th Street which were distracting and that the neighborhood had been impacted by demonstrations and increased traffic in the past.

20. The Zoning Commission is required by statute to give "great weight" to the written issues and concerns of the Advisory Neighborhood Commission. As to these issues and concerns, and the other issues raised in opposition, the Commission has previously found that it has the jurisdiction to consider the application. The Commission has also found that the applicant failed to prove that there was sufficient justification for the extension of the Diplomatic District into the residential areas off of Massachusetts Avenue. The Commission therefore finds it is unnecessary to address the other Supplemental Issues raised by the ANC.

21. As to the allegations of the improper use of 2500 - 30th Street, N.W. by various citizens, the Zoning Commission instructed the staff to request an interior inspection of the building by the Zoning Administrator to make a finding as to it's use. The staff of the Zoning Administrator's office inspected the building and by memorandum dated May 2, 1979, reported that on the day of the inspection, April 11, 1979, "from all appearances the building was not being used in violation of the D.C. Zoning Regulations." The report of the Zoning Administrator was admitted into the record at the further hearing held on July 12, 1979. The Commission finds that the building was not being used for chancery purposes at the time the inspection was made.

22. Subsequent to the close of the record, the applicant withdrew from consideration the request to rezone lot 2, which is the northernmost of the three lots and the one furtherest away from Massachusetts Avenue, N.W. The Commission did not entertain that withdrawal as it was not a part of the record. The Commission notes however, that the inclusion or exclusion of that lot from the application does not effect the basis of the decision contained herein.

CONCLUSIONS OF LAW

1. The proposed change would not be consistent with the purpose of the Zoning Act (Act of June 20, 1938, 52 Stat. 797) in that it would not promote a favorable distribution of land uses.

2. The change of zone to D/R-1-A would not promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District of Columbia.

3. The proposed change would result in an unwarranted expansion of chancery uses into a stable and low density residential area.

4. The change of zone from R-1-A to D/R-1-A would not be inconsistent with the Comprehensive Plan for the National Capital. However, for the reasons stated in this order, the application must be DENIED.

5. The Zoning Commission has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and the Conclusions of Law herein, the Commission orders DENIAL of the following request to amend the Zoning Map:

> Change from R-1-A to D/R-1-A Lots 2, 821, and 9 in Square 2145, located on the west side of the 2500 block of 30th Street, N.W.

Vote of the Commission taken at the public meeting of August 9, 1979: 5-0 (Commissioners Walter B. Lewis, George M. White, Theodore F. Mariani, and Ruby B. McZier, to DENY - Commissioner John G. Parsons, to DENY by PROXY).

Ruby B. McZier
RUBY B. McZIER
Chair
Zoning Commission

STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on September 13, 1979 by a vote of 4-0 (Walter B. Lewis, George M. White, Theodore F. Mariani and Ruby B. McZier to ADOPT, John G. Parsons not present, not voting).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this Order is final on 17 SEP 1979

Government of the District of Columbia
ZONING COMMISSION

January 25, 1982

The Honorable Charles McC. Mathias
Chairman
Sub-Committee on Governmental Efficiency
and the District of Columbia
Committee on Governmental Affairs
United States Senate
Room 6222 - Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Mathias:

Attached for inclusion in the record is a copy of the order of the Board of Zoning Adjustment issued on June 22, 1979 which denied the application, No. 12822, of the Government of Bangladesh to use the property at 2501 Massachusetts Avenue, N. W. as a chancery. This case was discussed at the public hearing held by the Sub-Committee on January 25, 1982.

If you have any questions or require any additional information, feel free to call me at 727-6311.

Very truly yours,

STEVEN E. SHER
Executive Director

Attachment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12822 of the Peoples' Republic of Bangladesh, pursuant to Section 4603 of the Zoning Regulations, for permission to use the premises as a chancery in the D/R-1-B District at the premises 2501 Massachusetts Avenue, N.W., (Square 2505, Lot 9).

HEARING DATE: December 6, 1978
DECISION DATE: February 28, 1979

FINDINGS OF FACT:

1. This application was originally advertised as a special exception under Sub-section 8207.2 of the Zoning Regulations. By corrected notice, dated November 21, 1978, all parties were advised that, pursuant to the Zoning Regulations adopted by the Zoning Commission in Order No. 236, the application will not be considered as a special exception but will be governed by Section 4603 of the Zoning Regulations.

2. The subject property is located in the northeast quadrant of the intersection of Massachusetts Avenue and California Streets, N.W. It is known as 2501 Massachusetts Avenue and is in a D/R-1-B District.

3. The subject lot is approximately 8,744 square feet in area and is improved with a three story limestone and stucco building with an area of approximately 8,263 square feet. To the rear of the building is an enclosed patio and a garden. The west side of the building, contains an enclosed garage for two cars. The building was constructed prior to May 12, 1958, the effective date of the current Zoning Regulations.

4. The building is set back approximately forty feet from the curb line of Massachusetts Avenue and has a semicircular driveway. The lot is wedge-shaped.

5. The subject property is within the Massachusetts Avenue Historic District.

6. The subject property is owned by the Peoples' Republic of Bangladesh and is used by its ambassador as a residence. The interior consists of eighteen rooms comprising bedrooms, sitting and living rooms.

7. The applicant proposes to relocate its Chancery from 3421 Massachusetts Avenue, N.W. to the subject building. The applicant proposes to use the first and second floor of the subject property as a chancery and the third floor to be designed for residential and representational purposes for official visitors. The Embassy of the Peoples' Republic of Bangladesh is located presently at No. 4 Highboro Court, Bethesda, Maryland.

8. The applicant proposes to locate on the subject site an ambassador, seven officers, eighteen employees, nine automobiles, the occupants of three "residential units" on the third floor and visitors. The chancery's business operations are from 9:30 a.m. to 5:30 p.m.

9. In the subject square 2505, bounded by Massachusetts Avenue, California Street, 24th Street, Tracy Place and Belmont Road there are thirty four structures. Twenty eight are used as residences and six are used as chanceries.

10. The application is brought under Section 4603 of the Zoning Regulations, which provides in pertinent part as follows:

> 4603.1 In areas mapped D, R-5-C, or SP, a chancery is a permitted use, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed Chancery is not incompatible with the present and proposed development of the neighborhood.
>
> 4603.2 In determining that the proposed chancery is not imcompatible with the present and proposed development of the neighborhood, the Board of Zoning Adjustment must find that:
>
> > 4603.21 The architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood.
> >
> > 4603.22 The height of the building does not exceed the maximum permitted in the applicable single or combined District in which it is located.
> >
> > 4603.23 The percent of lot occupancy does not exceed the maximum permitted and the minimum yard and court requirements are met in the applicable single or combined District in which it is located.

4603.24 The maximum FAR does not exceed the FAR prescribed for the applicable single District or the combined Districts in which it is located or an FAR of 1.5, whichever is greater.

4603.25 Except for Chanceries located in an R-5-C or R-5-D District, off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use.

4603.28 The use will not create dangerous or other objectionable traffic conditions

11. The height of the subject building is thirty five feet. It does not exceed the maximum height of forty feet which is permitted in the R-1-B District, and thus in the combined subject D/R-1-B District, as specified in Sub-section 3201.1 and Paragraph 4603.22.

12. The lot occupancy of the subject building,including the building in the rear which the applicant recently enclosed, is approximately forty-five percent and exceeds the maximum of forty percent permitted for the subject combined district, as specified in Sub-section 3303.1 and 4603.23 of the Zoning Regulations. At the Public Hearing the applicant requested to amend the application and now seeks a variance from the lot occupancy requirements of the Zoning Regulations. However, the applicant presented no evidence or testimony to support the granting of such a variance.

13. The east side yard is 11.7 feet wide. The west side yard is 11.69 feet wide at the front of the building and narrows down to a width of approximately one foot to the rear of the building. Sub-section 3305.1 of the Zoning Regulations requires a minimum width of eight feet for each side yard. The subject property was constructed prior to the current Zoning Regulations and from the aspect of the west side yard is a non-conforming structure. According to the architect's plans, Exhibit 112, the court requirements of Sub-paragraph 4603.23 are met.

14. The floor area ratio is 1.07 and does not exceed the maximum of 1.5 as permitted by Paragraph 4603.25 of the Zoning Regulations.

15. The proposed nine parking spaces comply with the requirements of Sub-paragraph 4603.25 of the Zoning Regulations. The computation of nine spaces is confirmed by the Office of Planning and Development and the Department of Transportation reports.

16. There will be no external alterations to the subject building. The architectural design will remain as is and as was originally designed.

17. The applicant's traffic expert witness testified that the proposed relocation of the applicant's chancery from 3421 Massachusetts Avenue, N.W. to the subject site would constitute a trade-off and the relocation would have no adverse impact on traffic operations. There would be no interference with through traffic on Massachusetts Avenue nor would there be any significant increase in traffic on California Street. He also testified that adequate parking space would be provided on-site to meet peak parking requirements.

The Department of Transportation's report, hereinafter discussed under Finding of Fact No. 26, stated that any additional traffic generated by the relocation of the chancery is proportionately insignificant and will not cause a measurable change in conditions.

The Board finds that the proposed use of the subject property will not create dangerous or other objectionable traffic conditions.

18. The applicant has submitted two parking plans to meet the requirements of Sub-paragraph 4603.25 of the Zoning Regulations. The first plan was to provide all parking spaces in the front of the building. Two spaces would be provided in the garage on the west side of the subject building. Seven spaces would have been marked off in what constitutes public space. Under the Zoning Regulations off-street parking requirements cannot be met through the use of public space.

Under the second proposed parking plan, the applicant would provide six parking spaces in the rear of the subject building, one in the circular driveway in front of the building and two in the aforementioned garage. As to the six spaces in the rear the applicant would tear out the rear garden, black top the garden area and provide a driveway in the east side yard of the building which would be connected to the curb cut on California Street that leads to the circular driveway. Through the use of screening, planting and an overhead trellis the applicant suggests that the six parking spaces would create no adverse impact on the adjoining property owners.

19. The Office of Planning and Development in its report, hereinafter discussed under Finding of Fact No. 25, recommended that the applicant consider underground parking. The applicant rejected this recommendation since it stated that such a plan would cost approximately $150,000 and is accordingly economically prohibitive.

20. All six parking spaces in the rear fit within the property itself but they are not independently accessible. The applicant would provide valet parking so that there would always be one persons available to maneuver the cars.

21. Sub-section 7206.7 of the Zoning Regulations provides that driveways which provide accessibility to parking spaces accessory to any structure other than a one family dwelling or flat shall be not less than fourteen feet in width and have a maximum grade of not more than twelve percent with a vertical transition at intersections. The proposed driveway would be 11.7 feet wide. At the Public Hearing the applicant requested a variance from the Zoning Regulations as to the width of the driveway. However, the applicant presented no evidence or testimony to support the granting of such a variance.

22. To the east of the subject property on California Street, and to west of the property, on Massachusetts Avenue there are twenty-one structures. Seventeen of the structures are residences and four are chanceries. Of the seventeen residences all have garages. Fourteen garages are located in the rear of the properties and three are contained within the structure itself. Of the seventeen garages, twelve have one-car garages and five have two-car garages. None of the four chanceries have garages. All parking spaces provided by the chanceries are open and to the rear of the property. (Exhibit 127)

23. On California Street and on Massachusetts Avenue on-street parking is limited to two hours except for a limited number of diplomatic zones.

24. Pursuant to Sub-section 4604.1 of the Zoning Regulations the application and site plan were referred for review and report to the Office of Planning and Development, the Department of Transportation, the Department of Environmental Services and the Department of Housing and Community Development. Comment was also requested of the U.S. Department of State and the National Capitol Planning Commission. Pursuant to Sub-section 4604.2 the application was referred to the Historic Preservation Officer of the District of Columbia for a report on the impact of the proposed chancery on said district or landmark.

25. By report dated December 1, 1978 the Office of Planning and Development recommended that the application as proposed be denied on the grounds that the use of the rear portions of the site for six off-street parking spaces would be incompatible with the abutting residential properties, particularly the residence immediately to the right of the subject site. The OPD further reported that if the applicant is prepared to build a parking structure entirely underground, preserving the existing topography and garden levels and meeting all regulatory requirements, it would view such development favorably. The Board concurs,

for reasons hereinafter discussed, that the proposed parking plan is incompatible with the abutting residential properties.

26. The Department of Transportation, by memorandum dated December 6, 1978, reported as follows:

> "Massachusetts Avenue is a principal arterial with a fifty foot wide roadway southeast of the site and forty foot wide roadway northwest of the site. Parking is prohibited during the peak hours in the peak direction allowing two moving lanes. The 1976 Average Daily Traffic was 32,400.
>
> California Street is a local street with a thirty foot wide roadway. Parking is permitted on both sides allowing one narrow moving lane in each direction. On the north side, parking is restricted to two hours, except for Residential Parking Permit holders. On the south side parking is reserved for diplomats only.
>
> The applicant projects a maximum staff of twenty-six people. Thirty-three percent of the present staff use public transportation, eleven percent walk to work and fifty-six percent use automobiles to commute. The present car occupancy rate is three. At these rates, five parking spaces are needed. Zoning Regulations, however, require nine spaces for this development at the rate of one space for each 800 square feet of gross floor area of chancery use. The applicant is providing the required nine off-street parking spaces.
>
> An entrance to the backyard parking spaces needs to be constructed. An adjustment to the existing curb cut on California Street will be required to provide direct alignment of the entrance to the backyard parking spaces. Coordination with the Department will be necessary for this work.
>
> The proposed chancery is expected to add five to ten automobile trips during the evening peak hours. Massachusetts Avenue, during the evening peak hour, operates in level of service E in the northwesterly direction. However, the additional traffic is proportionately insignificant and will, therefore, not cause a measurable change in conditions.
>
> The Department of Transportation recommended that the proposal be denied if for aesthetic reasons, on-site parking is unacceptable."

The Board concurs with the Department of Transportation report.

27. The Department of Environmental Services, by memorandum dated November 20, 1978, reported that it had reviewed the application and found that it did not have a detrimental impact on the environmental quality of the District of Columbia. Water and sewer services are available to the site.

28. The Department of Housing and Community Development, by memorandum dated December 1, 1978, reported as follows:

> "In accordance with Section 4604 of the Zoning Regulations, the Department of Housing and Community Development has reviewed the above application. We note that the proposal not only includes more parking spaces (12) than that required by the requirements of the Zoning District (8) but that all but one of these spaces would be placed within the public rights-of-way adjoining this site. Such a solution fails to meet the Zoning Regulations both for location as well as "keeping with the character of the neighborhood". The site plan is therefore unacceptable.
>
> We note further that no information is supplied concerning the topography of the site so that we cannot judge whether it would be possible to provide the required spaces elsewhere on this site without adverse impact on the surrounding neighborhood. Accordingly, we cannot recommend favorable action on this application."

29. The Department of State, by letter dated December 1, 1978, reported that the Department of State wished to inform the OPD of its strong support for the application of the People's Republic of Bangladesh for a chancery to be located at 2501 Massachusetts Avenue, N. W. The Department of State was of the opinion that this matter involves substantial Federal interests related to the conduct of foreign relations both here and abroad. The Department concluded, after carefully reviewing the application that the proposed use appears to be fully appropriate for its location, does not create adverse impacts, and, based on Section 4603 of the Zoning Regulations, merits approval. The Board appreciates the concerns expressed by the Department of State but for reasons hereinafter more fully discussed the Board cannot concur with the State Department's determination.

30. The National Capital Planning Commission,by letter of November 29, 1978, stated as follows:

> "The application, which was received by the Board on October 12, was referred to the Commission by the Director,

> Municipal Planning Office, by letter dated November 7, pursuant to Paragraph 4604.1 of the Zoning Regulations. Since the referral was subsequent to the November 2 meeting of the Commission and the public hearing is scheduled on December 6, prior to the December 7 meeting of the Commission, we are unable to present the application to the Commission for report and comment to the Board.
>
> It should be noted, however, that chancery use at the premises 2501 Massachusetts Avenue, N.W. is consistent with the Foreigh Missions and International Agencies element of the Comprehensive Plan for the National Capital.
>
> It should be further noted that although the application purports to be an application for a "special exception" the Comprehensive Plan requires that a chancery use at this location shall be permitted as a "matter-of-right".

The Board notes that the notice for the hearing was corrected to indicate that the application is not being considered as a special exception, but rather under the criteria specified in Section 4603 of the Zoning Regulations.

31. The State Historic Preservation Officer for the District of Columbia, by memorandum dated December 1, 1978 reported as follows:

> "This is in response to your request of November 8, 1978, for a report pursuant to Section 6404.2 of the Zoning Regulations on the impact of the proposed chancery of the People's Republic of Bangladesh to be located at 2501 Massachusetts Avenue, N.W., which is within the Massachusetts Avenue Historic District.
>
> After reviewing the material originally submitted for review, as well as the revised site plan provided by Mr. Robinson of your staff on December 1, 1978, I am deeply concerned about the potential adverse impact which the proposed parking on the, site under either of the submitted plans, will have on significant architectural and historic qualities of the Massachusetts Avenue Historic District. Given the configuration of the lot, its small size and the proximity of the building on the lot to its neighbors, I am of the opinion that the intensity of parking proposed in front of this distinguished building, as indicated on the initial site plan, and particularly in the rear garden, as indicated on the revised site plan, will have a highly undesirable impact on significant residential qualities of 2501 Massachusetts Avenue, as well as of its immediate neighbors in the Massachusetts Avenue Historic District."
>
> The Board so finds.

32. Advisory Neighborhood Commission 1-D testified at the Public Hearing of December 6, 1978 that at it's Town Hall and Commission meeting of Novermber 30, 1978, the ANC voted to oppose the subject application on the following grounds:

1. Zoning Commission Order No. 236 states that the BZA must determine that the proposed Chancery is not incompatible with the present and proposed development of the neighborhood. One basis of determination is the percentage of lot occupancy and minimum yard and court requirements. 2501 Massachusetts Avenue was built as a very large house on a small wedge-shaped lot. It is entirely too close to its neighbors by any standards, particularly for office use.

2. Both proposed off-street parking arrangements necessary to meet the requirements of Order No. 236 will not be in keeping with the character of the neighborhood, another of the review standards. To pave over the rear garden would destroy the appearance and pollute the air of gardens belonging to the next door neighbors and the residents of a portion of Tracy Place. To pave more of the public property in the front for parking, an alternate plan, would be esthetically displeasing and would funnel exhaust fumes into the windows of the house at 2507 Massachusetts Avenue which is extremely close. In either case, the ANC questions whether the parking spaces could meet the requirement of being ten feet away. In regard to parking in the front, the parking arrangements at the Turkish Chancery in the middle of the block have been cited as a precedent. First of all, the Turkish Chancery building is set apart from its neighbors by much greater side yard space than 2501 Massachusetts Avenue. Secondly, it has existed as a Chancery for many years prior to current regulations.

3. The ANC has been told that many of the employees of the Bangladesh Chancery will use public transportation. They did not appear to do so when they worked at what was the Brighton Hotel on California Street. They do not appear to be doing so at their present location on Massachusetts Avenue, understandably because the service is very poor. In fact the bus service on Massachusetts Avenue was another subject of discussion at a recent meeting. The Metrorail Station at Dupont Circle is six blocks from the proposed Chancery. Some of these blocks are very long and some street crossings very difficult and time consuming. In bad weather, not very many people will care to take the walk.

4. The ANC has been told that office use is preferable to residential use because the building will be empty at the end of the day, unless the third floor guest quarters are in use. The fallacy in this statement is that the office use produces traffic during the very hours that the problem is most acute in the neighborhood. At night, parking for entertainment, etc. at the residences is no problem. As for noise, the sounds of children and entertaining are to be expected and are accepted in a residential neighborhood.

5. One argument always set forth for Chancery use is that large houses are no longer salable for private residential use. In recent times, in Sheridan-Kalorama, two large houses on S Street have been sold, one to a private individual and one to an Ambassador for his home. A very large house on R Street has been sold privately. The largest and most lavish of all was just sold for an Embassy for one and a half million dollars, not for a Chancery.

6. When determining the compatibility of the proposed Chancery with the present and proposed development of the neighborhood, it is necessary that a clear look be taken at the residential elements as well as at the existing Chanceries. It is the same problem as deciding whether a glass with some water in it is half full or half empty. The neighborhood has been looked at from only one direction. The survey which the ANC submitted, which is marked as Exhibit 118, clearly establishes the residential character of the area.

7. While the ANC accepts the fact that precedents are not to be considered as valid arguments pro or con before the BZA and that therefore future requests for Chancery use would not be influenced by your decision in this, Sheridan-Kalorama is already feeling the results of the mere fact that this Hearing is being held. A very large house is being advertised as being in "Designated Chancery Zoning" without any mention of BZA approval. There's also a law office quietly establishing itself in a former Chancery related house on the basis of the twisted logic that if a Chancery is an office,and the law business is an office, therefore the house can be used for offices. No attempt has been made to obtain a Certificate of Occupancy or BZA approval.

The ANC concluded that if this very unsuitable house is allowed to be used as a Chancery, it will be the beginning of the end for its beautiful residential neighborhood. This does not mean that under Zoning Commission Order No. 236, no Chanceries can be allowed. To the ANC it means that it must prevent the use of unsuitable house for Chanceries or the word will be out that anything goes in Sheridan-Kalorama.

33. The Sheridan Kalorama Neighborhood Council (SKNC) and the two abutting residential property owners, all represented by the same counsel, appeared in opposition to the application. In addition to the same kinds of issues raised by the ANC and already cited herein, the SKNC and the abutting owners took the following positions:

1. The applicant was on notice when it acquired the property in 1977 that alteration or use of the property as a chancery was not permitted under the Zoning Regulations, that the applicant had proceeded to alter the building without obtaining permits from the proper authorities of the District of Columbia, and that the applicant had therefore jeopardized its credibility in now appearing before the Board and requesting permssion to use the premises as a chancery.

2. The Board lacks jurisdiction to hear the application on the ground that the Orders of the Zoning Commission creating and mapping the Diplomatic Districts are unlawful.

34. There were approximately one hundred letters from neighboring property owners in opposition to the application on the grounds that when the subject property was purchased it was represented that it would be used as an Embassy and not a Chancery and that the subject district is a residential district.

35. There was one letter of record in favor of the application. The writer is the owner of the building in which the present chancery of the applicant is located.

36. The Board is required by statute to give great weight to the issues and concerns expressed by the ANC. In the subject application the Board agrees with all the concerns expressed by the ANC except for item three. The Board believes that public transportation is adequate in the area, and that it is reasonable to expect employees to use public transportation where available. The Board concurs in the ANC's resolution that the application be denied.

37. As to the additional issues raised by parties in opposition, the Board finds that the credibility of the applicant is not at issue in this case. The Board finds that, even though alterations were made to the property without proper permits, applicant has not occupied the property illegally, that the alterations already accomplished could suit the building as well for residential use

as for chancery use, and that the statements of the applicant relative to its intention when it originally acquired the building before chancery use could even be applied for, must be accepted at face value.

CONCLUSIONS OF LAW:

The opposition has raised the question of whether the Board even has jurisdiction to hear and decide the application. As raised by the opposition, the question of jurisdiction relates to the legality of Zoning Commission Order No. 236 and 237 which created and mapped the Diplomatic District. The Board concludes that it is not the proper forum in which to raise such an issue, and that absent any stay on the effectiveness of the Zoning Commission Orders, the Board has jurisdiction to hear and decide the case.

Based on the record, the Board concludes that the applicant has not met the requirements of Section 4603 of the Zoning Regulations. The subject building exceeds the lot occupancy (Finding of Fact No. 12) and the west side yard is not eight feet wide in its entirety (Finding of Fact No. 13). The Board notes that the applicant at the Public Hearing of December 6, 1978 requested permission to amend its application and seek variances from the lot occupancy and side yard requirements of the Zoning Regulations. The Board concludes that the applicant has not demonstrated why the property qualifies for a variance, in that the applicant has not shown any "exceptional narrowness, shallowness or shape" or "exceptional situation or condition" of the subject property and has not demonstrated how the strict application of the Regulations "would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner " of the property. The Board notes, however, that it need not consider these requests for variances since, based on the record these issues are not dispositive of this application.

The central and controlling issue in this application is whether the applicant has met the requirements of Sub-section 4603.21 in establishing that the arrangement of the off-street parking spaces are in keeping with the character of the neighborhood. The Board thinks not and agrees with the reasoning of the community opposition, the ANC, the Office of Planning and Development, the Department of Transportation and the State Historic Preservation Officer. The Board's rationale is based on the following issues. The subject area is a residential area zoned D/R-1-B. There are thirty four structures in the subject square of which twenty-eight are residences and only six are chanceries (Finding of Fact No. 9). On California Street and on Massachusetts Avenue there is on-street parking limited to two hours which reflects the residential character of the neighborhood (Finding of Fact

No. 23). The applicant proposes to relocate its present chancery to the subject site. The relocation will cause the presence of an ambassador, seven officers, eighteen employees, nine automobiles, the occupants of three "residential units" on the third floor and visitors (Finding of Fact No. 8). Office uses, such as a chancery, with its inherent characteristics of noise, increased traffic of people and cars and deserted buildings at night are not indigenous to the subject predominately residential neighborhood.

As to the proposed parking scheme for the rear of the subject building in a predominately residential area the applicant proposes six spaces. Much of the rear garden would be eliminated to accommodate the six spaces. The area would be blacktopped. Valet parking would be required since the area does not provide maneuverability for all six cars and a variance would be required for the proposed driveway since it is not fourteen feet wide as required by the Zoning Regulations (Findings of Fact No. 18, 20 and 21). Of the seventeen residences in the immediate area of Massachusettes Avenue and California Street all have garages. Fourteen are in the rear yards and twelve of them have a one car garage and five have two car garages (Finding of Fact No. 22).

Also, the configuration of the subject lot is wedge-shaped. On it's west side, the building at one point is only approximately one foot from the adjoining building. The noise and fumes from the six cars in the rear would have an adverse impact particularly on the residences to the east and west of the subject site. The intensity of the parking in general would not be in keeping with the character of the existing neighborhood in which parking facilities constitute enclosed parking of one or two cars in the rear of the property while still preserving a garden. The aesthetic appearance of the neighborhood would be violated, as well as the amenities of residential living, if this parking proposal was permitted.

The Board has satisfactorily addressed itself to the issues and concerns of the ANC. For the reasons cited above including the area variances needed, an office use in a predominately residential neighborhood and a parking proposal that is out of character with the neighborhood,the Board concludes that this particular subject property is not suitable for a chancery and that the chancery is not compatible with the present and proposed development of the neighborhoood. Accordingly, the application is DENIED.

CONCURRING OPINION OF WILLIAM F. McINTOSH

I concur in the denial of the application solely on the grounds that, as indicated in Findings of Fact Nos. 12 and 13, the percent of lot occupancy exceeds the maximum permitted in, and the minimum yard requirements are not met for, the D/R-1-B District in which the premises are located.

I do not agree with the majority of the Board that the "central and controlling issue in this application is whether the applicant has met the requirements of Sub-section 4603.21". Section 4603 of the Zoning Regulations requires that the Board determine, among other matters, that a proposed chancery "is not incompatible with the present and proposed development of the neighborhood" (Sub-section 4603.1) and find that "[t]he architectural desing and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood" (Sub-section 4603.21) and "[t]he use will not create dangerous or other objectionable traffic conditions" (Sub-section 4603.28).

These provisions clearly purport to make chanceries special exception uses in D District notwithstanding the clear requirement of the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital that chanceries shall be permitted as a matter of right in areas meeting the criteria in Section 313.41 of, and indicated on the Foreign Missions and International Agencies diagram in, the Comprehensive Plan. Amending the notice for the hearing in this case to "indicate that the application is not being considered as a special exception" (Findings of Fact Nos. 1 and 30) does not change the nature of the case.

Accordingly, the "special exception" provision of Section 4603 of the Zoning Regulations does not comply with the requirement in Section 2 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-414), that the Zoning Regulations "shall not be inconsistent with the comprehensive plan for the National Capital" and does not provide a basis for the denial of an application for chancery use in D Districts.

VOTE:

5-0 (Chloethiel Woodard Smith, Ruby B. McZier, Charles R. Norris, William F. McIntosh and Leonard L. McCants to deny)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By: STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 22 JUN 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

Chancery/Embassy Cases

Before the Board of Zoning Adjustment

Since Adoption of the Diplomatic District

CASE NO.	COUNTRY	FILED	DECIDED	DISPOSITION
12822	Bangladesh	10/12/78	6/22/79	Denied
12826	Saudi Arabia	10/24/78	11/9/79	Granted
13137	Gambia	11/26/79	4/21/80	Granted
13166	Italy	12/18/79	5/27/80	Granted
13313	Venezuela	6/4/80	10/6/80	Granted
13361	Indonesia	8/8/80	2/5/81	Granted
13393	Korea	10/3/80		Pending; hearing delayed at request of applicant
13459	Singapore	2/3/81	7/6/81	Granted
13517	Philippines	4/28/81	7/27/81	Granted
13532	France	5/29/81	10/15/81	Granted
13642	Cape Verde	9/9/81	1/28/82	Granted
13360	Chad	9/21/81	1/27/82	Granted

Council of the District of Columbia
Memorandum

District Building, 14th and E Streets, N.W. 20004 Fifth Floor 724-8000

To David A. Clarke

From Chris Washburn

Date March 2, 1981

Subject Results of Chancery research

The Zoning Commission granted all five requests for orders permitting chanceries that it considered from 1974 to 1980.

The Board of Zoning Adjustment considered eighteen chancery cases, 1974-80. Of those, fifteen requests for new or modified chanceries were granted. The board denied the People's Republic of Bangladesh's request to convert a house occupied by the ambassador at 2501 Massachusetts Avenue NW in Ward 1, precinct 13, to a chancery (case number 12822). Reasons cited were historic preservation and anticipated excessive surface congestion by autos. The board also denied permission to a private citizen to convert a plot of land near the chancery of Finland in Ward 3 to a parking lot. Cited as the reason was possible harm to children attending a nearby school. That makes fifteen grants, two denies, and one dismissal without prejudice. In case number 12750, the board had delayed consideration of a chancery application by Algeria at the request of the State Department for unspecified reasons. When the deal between Algeria and the seller fell through after some months, Algeria withdrew its application, which led to dismissal without prejudice. (To be exact, one of the grants, case number 13313, involved the addition of a carport to the residence of the Venezuelan ambassador. I included it because it is the only case involving a residence modification.)

Zoning Commission Orders Relating to Foreign Chanceries, 1974-80

Order No.	Country	Date	Decision
91	Italy	June 7, 1974	Approved
106	Czechoslovakia-Hungary-Indonesia-Poland Cluster	Dec. 30, 1974	Approved
205	Italy	Feb. 9, 1978	Approved
209	Finland	Feb. 9, 1978	Approved
264	France	Feb. 8, 1979	Approved
264	France	Nov. 13, 1980	Order 264 extended to Aug. 6, 1981 at request of France

Board of Zoning Adjustment
Foreign Chancery Cases, 1974-80

Case No.	Country	Date	Decision
11541	People's Republic of China	Dec. 6, 1973	Conditionally granted
11590	Australia	Feb. 21, 1974	Unconditionally granted
11784	U.S.S.R.	Oct. 25, 1974	Conditionally granted
11880	Hungary	Feb. 25, 1975	Conditionally granted
12073	Unidentified*	Feb. 11, 1976	Conditionally granted
12107	Poland	May 3, 1976	Conditionally granted
12131	Bolivia	April 21, 1976	Conditionally granted
12131	Bolivia	April 20, 1977	Withdrawn
12132	Protest Appeal against Czechoslovakia-Hungary-Indonesia-Poland Cluster	May 25, 1976	Denied
12268	New Zealand	Feb. 16, 1977	Conditionally granted
12750	Algeria	Feb. 28, 1979	Dismissed without prejudice because contract of sale withdrawn
12822	Bangladesh	Feb. 28, 1979	Denied**
12826	Saudi Arabia	Sept. 8, 1979	Conditionally granted
13137	Gambia	Feb. 6, 1980	Conditionally granted
13166	Italy	Mar. 5, 1980	Conditionally granted
13248	Finland*	May 21, 1980	Denied***
13313	Venezuela	Sept. 3, 1980	Conditionally granted
13361	Indonesia	Dec. 3, 1980	Conditionally granted

* Application submitted by private landowner, not foreign government.

** Reasons: (1) historic preservation, (2) inadequate parking.

*** Reasons: elementary school nearby.

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DIRECT DIAL: 457-7836

April 14, 1982

Fritz Alan Korth, Esquire
Sheridan Kalorama Neighborhood Council
1910 - 24th Street, Northwest
Washington, D. C. 20008

Re: Japanese Chancery Addition

Dear Fritz:

Enclosed is a letter from the Japanese Embassy responding to your letter dated April 6, 1982. On behalf of the Embassy let me also express our appreciation for the expeditious manner in which your organization has reviewed and commented on the proposed addition. With your support and the support of the Advisory Neighborhood Commission we would expect the application to the Board of Zoning Adjustment to proceed quickly and without undue delay.

Best regards.

Sincerely,

Whayne by [illegible]

Whayne S. Quin

WSQ:IOM III:ca
Enc.

By Hand

EMBASSY OF JAPAN
2520 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20008
(202) 234-2266

April 13, 1982

Fritz-Alan Korth, Esq.
President
Sheridan-Kalorama Neighborhood Council
1910 24th St., N.W.
Washington, D.C. 20008

Dear Mr. Korth,

The Embassy of Japan expresses its gratitude for extending your warm hospitality by inviting representatives of the Embassy to describe its Chancery redevelopment project to the Executive Committee of the Sheridan-Kalorama Neighborhood Council and for the expeditious consideration you have given to the project.

We believe that our Chancery addition meets our goals of designing a building which fulfills the functional needs of the Embassy, while at the same time respects the character of the neighborhood in which we work and many of our neighbors live.

The Embassy of Japan has long been part of the neighborhood in which its Chancery is located. For that reason, during the construction of our Chancery we will continue to keep our neighbors informed of our construction activities. We therefore look forward to maintaining amicable relations with the Sheridan-Kalorama Neighborhood Council, as well as with ANC-1D and with our neighbors.

Sincerely yours,

Kyoji Komachi

Kyoji Komachi
First Secretary
Embassy of Japan

SHERIDAN-KALORAMA NEIGHBORHOOD COUNCIL

Fritz-Alan Korth
President
(202) 223-3630

John D. Firestone
Secretary-Treasurer
(202) 337-8069

1101 30th Street, N.W.
Suite #104
Washington, D.C. 20007

April 6, 1982

Embassy of Japan
2520 Massachusetts Avenue
Washington, D.C. 20008

Gentlemen:

We appreciate your continuing and consistent concerns to be good neighbors in Sheridan Kalorama as well as your efforts to address the concerns of the Sheridan Kalorama Neighborhood Council as a representative body of the neighborhood.

The Board at its meeting last evening, after your departure, discussed at some length your presentation as well as your drawings which you kindly left with us. The Board has directed me to inform you that they are pleased you are retaining the historical aspects of the buildings by not subordinating nor destroying the existing buildings and integrating the new office in a pleasing fashion. Your requiring the employees to utilize the underground parking will reduce the on-the-street congestion as well as availing spaces to your visitors. It is my understanding that the plans are for there to be no more than 175 employees in five years and there will be adequate parking for visitors as well in the 250-car garage for the foreseeable future. Your commitment to preserve the existing trees as well as enhance the landscaping will be an attractive addition to the neighborhood and I am happy to hear that no antennas will mar the architectural excellence and aesthetic pleasure of the lines of your existing and expanding buildings.

As you recognized, the possibility for disruption will be greatest during the period of construction and we were quite pleased that you will instruct the contractors to keep this disruption to a minimum through shuttling workers, etc.

I am also happy that you have suggested a continuing liaison with the Neighborhood Council to diffuse any problems hopefully even before they arise.

In summary let me tell you that the Council and I are pleased to have worked with your representatives in a most cooperative and positive fashion and the Neighborhood Council supports your application for the addition as presented to us.

Sincerely,

Fritz-Alan Korth
President

SAN FRANCISCO

ZONING FOR CONSULATES

There are several dozen consulate offices in San Francisco of foreign governments. They are usually a combination residence and consulate.

The San Francisco zoning code considers consulates "office" uses and does not mention consulate in the code.

San Francisco zoning code and planning policy believes such office uses should be near the port, downtown, close to import/export firms, lawyers, and the courts. They actively encourage consulates to locate downtown.

Consulates are permitted as a matter of right in all commercial and office zones. They are not permitted in any residential zones. There exists no special exception process to permit such consulates to locate in residential zones.

Those consulates which are presently located in residential zones are pre-existing non-conforming uses. Some are in large mansions in silk stocking districts, such as the presidio.

Because many consulates are combination residences and offices, the foreign government often tries to locate them in residential areas. Floor space costs are also less expensive in residential districts than in office districts. They can only locate in a residential district, however, if they move into one of the existing consulates which has been vacated by another government. As mentioned above, those buildings in residential neighborhoods are pre-existing, non-conforming uses which can continue that use indefinitely.

The San Francisco Zoning Administrator's office plays an active role in assisting foreign governments to locate suitable space in the downtown office districts, by referring them to realtors, and by informing them of zoning requirements and city code requirements.

On occasion, the San Francisco office has successfully located a site for a new government seeking to locate by using an urban renewal site in the downtown, or converting a vacant building in the office district to the foreign government's purposes.

The Zoning Administrator's office reports little contact with the State Department over the locating or aiding in the locating of consulates.

A letter for the hearing record on the San Francisco zoning and procedure will follow.

contact: Robert Passmore
Zoning Administrator
Dept. City Planning
100 Larkin St.
San Francisco, Calif. 94102

415-558-3050 Robert Feldman (deputy)

City and County of San F Department of City Planning

January 21, 1980

Margaret Gault, President
Presidio Heights Association of Neighbors
P.O.Box 26516
San Francisco, CA 94126

Re: Consulates in residential districts

Dear Mrs. Gault:

Thank you for your letter dated January 3, 1980 and the accompanying copy of the letter from the Department of State. We appreciate and share your concern for maintaining the residential character of your neighborhood.

While the City Planning Code is silent on the subject of consulates, it is the established practice of the department to consider consulates, the residences and offices of the commercial representatives of foreign countries, as business offices open to the public, and to encourage their location in commercial zoning districts. In addition, we enforce the use provisions of the Planning Code in the event such a business office is located in a residential zoning district. Understandably, enforcement of local land use regulations is more complicated in the case of ownership and use of property by foreign representatives, since there may be diplomatic and national interest in the City's relations with them. However, we continue to implement the use provisions of the Planning Code and to enforce its standards as individual cases come to our attention, and as budget limitations allow us to devote staff time to such activities. In general, enforcement activities have been minimally funded over the years, and this situation is not likely to change.

From our point of view, business offices, especially those concerned primarily with the commercial interests of foreign nations, are best located in the C-3-O Downtown Office zoning district for the reasons that commercial, shipping, legal and customs offices are primarily located there. Residential districts are set aside for residential use. The current housing shortage serves to encourage us to implement the policies of the Residence element of Comprehensive Plan and to maintain the residential housing stock of the city through enforcement of the Planning Code.

Yours truly,

Robert W. Passmore
Acting Zoning Administrator

cc: Toby Rosenblatt,
President of City Planning Commission
George Agnost, City Attorney
RWP/DJS/RHF/tb

City and County of San Francisco Department of City Planning

October 30, 1980

P.N. Bhatnagar
Consul and Head of Chancery
Consulate General of India
215 Market Street
San Francisco, CA 94105

Re: CU74.6 C.P.C. Res. No. 7155
5 Wood Street
Assessor's Block: 1069 Lot: 1
Zoning: RH-2 (Residential, House character, Two-Family)

Dear Consul Bhatnagar:

This letter is on response to your inquiry dated October 21, 1980 requesting information on the proposed use of the property at 5 Wood Street as the office of the Consulate General of India.

Following are the answers to the questions posed in your letter:

1. In 1978 the Planning Commission recommended to the Board of Supervisors, the legislative body of the City and County of San Francisco, that the residential standards as contained in the City Planning Code be revised to not allow any non-profit or business offices in residential districts. Consular offices are included under the Planning Code as commercial or business offices. Therefore, the Planning Commission no longer has the jurisdiction to approve, even as a conditional use, the conversion of the building at 5 Wood to Consular offices. It would take a reclassification of the property to a commercial use district to allow for such a conversion. The department would definitely recommend disapproval of such an application; the Commission would probably disapprove also.

Under California law a single lot classification of zoning is deemed a "spot zone", and is suspect as being an arbitrary or capricious action; it is unlikely the Board of Supervisors would approve such an application.

2. Assuming an application for reclassification was filed by noon, November 18, 1980, a hearing would be possible at the earliest on January 8, 1981. Final action by the Board of Supervisors and the Mayor would add one or two months to the process.

3. The City Planning Commission authorized use of the property at 5 Wood Street as a library, open two days a week, in 1974. The Department of City Planning would certainly recommend to the Commission that any application to convert the building to use as a consular office be disapproved as it would be incompatible with the surrounding residential area. It is very likely that the Planning Commission would disapprove such application as its highest priority is the retention of dwelling units and the preservation of the residential neighborhoods of the City.

4. While any business office, including a consular office, is a permitted use in a C-2 district, it is the policy of this department to encourage consular offices to locate Downtown in the C-3 zoning districts, away from the residential areas of the city and near the Customs House and the financial center. This area, well-served by public transit, is appropriate for business offices of all types, including consulates.

We hope this answers your questions satisfactorily. You may call on Mr. Feldman at 558-3055 for any additional information.

Yours truly,

Robert W. Passmore
Assistant Director of
Planning - Implementation
(Zoning Administrator)

RWP/RHF/ab

NEW YORK CITY

ZONING FOR CONSULATES AND U.N. MISSIONS

The New York City zoning code treats consulates and foreign missions as a "community facility" in residential neighborhoods. A "community facility" is a non-profit, philanthropic, eleemosynary institution.

If there are sleeping accomodations as part of the consulate, then consulate space may not exceed 25% of the consulate's total floor space or 2500 sq. ft., whichever is greater, if the facility is to locate in a residential zone. Further, if located in a residential zone, the number of employees may not exceed 50.

Consulates are treated like every other office use in New York's zoning code. If they are exclusively office use, then they must locate in office or commercial districts.

The principal controversy concerning the location of chanceries in residential districts in Manhattan and the other boroughs concerns the type of country proposing to locate. If it is a government associated with terrorism or controversy, no one wants to live near them with the possibility of bombs, building takeovers, and the like.

contact: Mr. Erwin Fruchtman
Commissioner of Bldgs
(212) 248-8811 City of New York
120 Wall St.

THE NEW YORK CITY COMMISSION FOR THE U.N. AND CONSULAR CORPS.

This 14 member city commission is charged with assisting foreign governments on an individual basis in dealing with city laws and procedures. These might include:

- personal legal problems of diplomatic personnel
- NY city & state real estate tax exemption status
- assistance in locating consulate space (thru referral to a broker)

The Deputy Commissioner reports that foreign governments in New York all want to be close to the United Nations. There is little problem finding office space for them, except when there are security considerations, such as threats against the country.

As a general rule, consulates may locate in large office buildings which contain many other office uses. There are no special entrances or other security provisions that this city commission is aware of.

Further, they report no correspondence or contact with the State Department or Secret Service over consulate matters in the past 7 years.

ASSISTANT LEGAL ADVISOR - U.S. MISSION TO THE U.N.

This State Department person is the counterpart to the NYC Commission and also deals with individual foreign governments from a diplomatic reciprocity point of view. They occassionally interface with the NYC Commission.

For example, New York City tows diplomatic cars parked illegally. The Assistant Legal Advisor to the U.S Mission periodically asks the city, through the NYC Commission, to refrain from towing because of reciprocity considerations.

A letter for the hearing record concerning New York's procedures will follow.

contact: Mr. Andrew Odell (212) 986-4321
Deputy Commissioner
NYC Comm. for U.N. and Consular Corps
809 U.N. Plaza
N.Y., N.Y. 10017

Note: the NYC Commission can and does deal with foreign governments which are not recognized by the U.S., such as North Korea. The U.S. Mission, on the other hand, and its Legal Advisor do not deal with them.

NEW YORK CITY COMMISSION
FOR THE UNITED NATIONS
AND
FOR THE CONSULAR CORPS
809 UNITED NATIONS PLAZA
NEW YORK 10017

GILLIAN MARTIN SORENSEN
COMMISSIONER

EIGHTH FLOOR
986-4321

February 8, 1982

Ms. Marion Morris
Professional Staff Member
United States Senate
Subcommittee on Governmental Efficiency
and the District of Columbia
Washington, D.C. 20510

Re: United Nations Missions/Consulates-General -
New York City Zoning Resolutions

Dear Ms. Morris:

This is in response to your letter dated January 21, 1982 in connection with the above-referenced matter.

The City of New York presently has ninety-four (94) consulates-general and one hundred fifty-seven (157) permanent and five (5) observer missions to the United Nations. The size of these offices in terms of employees ranges from two (2) persons to two hundred sixty-five (265). With respect to floor area, the size is illustrated by the following examples of large mission offices:

U.S.S.R. Mission	136 East 67th Street	11 stories - 115,000 square feet
China Mission	155 West 66th Street	10 stories - 112,000 square feet
Uganda Mission	336 East 45th Street	15 stories - 45,000 square feet
Libya Mission (proposed)	305-19 East 43rd Street	24 stories - 120,970 square feet

The zoning code of New York City makes no specific reference to United Nations missions or consulates-general. They are, therefore, treated for zoning purposes as business offices, or in certain circumstances, set forth below, as "community facilities". Accordingly, as of right a mission or consulate can locate in a commercial zone, provided it meets the bulk and use requirements of any office building in the subject zone. With regard to the location of a mission or consulate in a residential zone, the City considers them "community facilities", and they must meet certain criteria. A "community facility" can only be located in a residential zone when, 1) the central office does not exceed 25% of the total floor area of the building, or in certain zones, not more than a total of 25,000 square feet, and 2) not more than 50 people work in the central office. For your reference, while the City has considered missions/consulates "community facilities", this definition was originally created for organizations which provide for community needs, such as a drug clinic or recreation facility. Furthermore, in light of the above, missions or consulates exist boroughwide in both commercial and residential zones.

With regard to the zoning process, there is no special system for foreign government offices. Plans for a mission or consulate must be submitted to the New York City Department of Buildings which makes a determination as to whether the proposed building complies with appropriate zoning resolutions and building code requirements. If the determination is in the negative, an initial appeal may be taken to the Board of Standards and Appeals. If no success is achieved there, a further appeal, in some circumstances, may be taken to the New York City Board of Estimate or judicial review may be invoked.

It is hoped this information is helpful. Should you have any other questions, please contact me at your convenience.

Very truly yours,

Andrew L. Odell

ALO:bw

Andrew L. Odell
DEPUTY COMMISSIONER

Chapter 5 Special United Nations Development District

85-00 GENERAL PURPOSES

The "Special United Nations Development District" established in this resolution is designed to promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

(a) To preserve, protect and promote the character of the Special United Nations Development District adjacent to the headquarters of the United Nations—an attraction which helps the City of New York to maintain its preeminent status as a center for international organizations, as an office headquarters center and a cosmopolitan residential community;

(b) To facilitate the continued growth of the programs and activities of the United Nations and to help assure the retention of the United Nations headquarters in the City of New York;

(c) To encourage the provision of suitable office facilities for the missions of member nations of the United Nations, and for non-governmental organizations related to the United Nations, in an attractive environment within a reasonable distance of the United Nations;

(d) To encourage the provision of housing suitable for personnel of delegations and members of the United Nations staff within a reasonable distance of the United Nations;

(e) To encourage the provision of hotel accommodations in the immediate vicinity of the United Nations suitable for visiting heads of state and other dignitaries attending the United Nations;

(f) To encourage the provisions of facilities to serve the approximately 6,000 visitors, including school children and other students, who come to the United Nations daily, including a bus terminal and parking facilities, meeting rooms, auditorium facilities and cafeteria suitable for visitors;

(g) To alleviate vehicular and pedestrian traffic congestion in the vicinity of the United Nations;

(h) To promote coordinated redevelopment of the area contiguous to the United Nations in a manner consistent with the foregoing objectives which are an integral element of the comprehensive plan of the City New York;

(i) To provide freedom of architectural design in accommodating facilities for the United Nations and supporting activities within multi-use structures which produce more attractive and economic development;

(j) To promote the most desirable use of land in this area in accordance with a well-considered plan to promote the special character of the district and its peculiar suitability for uses related to the United Nations and thus to conserve the value of land and buildings, and thereby protect the city's tax revenues.

85-01

Definition (repeated from Section 12-10) Special United Nations Development District

The "Special United Nations Development District" is a Special Purpose District designated by the letter "U" in which special regulations set forth in Article VIII, Chapter 5, apply. *The Special United Nations Development District* appears on the *zoning maps* superimposed on other districts, and, where indicated, its regulations supersede those of the districts on which it is superimposed.

85-02

General Provisions

In harmony with the general purpose and intent of this resolution and the general purposes of the *Special United Nations Development District* and in accordance with the provisions of this Chapter, the existing district regulations are superseded and replaced by the regulations applying to a C5-3 district, except as modified by the provisions of this Chapter, for construction of any *development* in the *Special United Nations Development District*, provided that the *development* is undertaken in accordance with a development plan approved by the City Planning Commission and the Board of Estimate, which plan comprises *zoning lots* having a total area of at least 3 acres to be *developed* at one time or in stages, and that such *development* is undertaken by or with the consent of the party proposing such plan, and further provided that the Chairman of the City Planning Commission certifies that the final plans generally comply with the design concept dated January 6, 1970 on file with the City Planning Commission.

85-03

Modifications of Use Regulations

In addition to the uses permitted in a C5-3 district, the *uses* and *accessory uses* set forth in this section are hereby permitted in any *development* to be constructed in accordance with the general purposes and provisions of this Chapter, notwithstanding any other provision of this resolution. All such *commercial uses* may be located in any *mixed building* and anywhere within such *building* without regard to Section 32-42. In *developments* on *lots* of less than 25,000 square feet, *residential uses* may not be located on the same floor as *commercial uses*.

(a) theatres with unlimited capacity;

(b) auditoriums with unlimited capacity;

(c) eating or drinking places without restriction;

(d) indoor skating rinks;

(e) indoor tennis courts;

(f) commercial swimming pools;

(g) other recreational uses;

(h) automobile rental establishments;

(i) printing or publishing, without limitation on *floor area* per establishment;

(j) photographic developing or printing, without limitation on *floor area* per establishment;

(k) temporary *public parking lots* of no more than five years duration or until such time as the *development* is completed, whichever is sooner;

(l) bus stations and *accessory group parking facilities* with a capacity of 50 parking spaces for buses; 600 parking spaces for automobiles solely for the residences, hotel, foreign missions and United Nations related uses.

Italicized words are defined in Section 12-10.

85-04

Modifications of Bulk Regulations

Notwithstanding any other provisions of this resolution the following modifications of *bulk* regulations are hereby granted for any *development* which the Chairman of the City Planning Commission certifies will generally comply with the design concept dated January 6, 1970 on file with the City Planning Commission.

The provisions of Sections 23-16, 24-14 and 33-13 (Floor Area Bonus for a Plaza), Sections 23-17, 24-15 and 33-14 (Floor Area Bonus for a Plaza-Connected Open Area), Sections 23-18, 24-16 and 33-15 (Floor Area Bonus for Arcades), Section 23-23 (Density Bonus for a Plaza-Connected Open Area or Arcade), Section 35-35 (Floor Area Bonus for Plaza, Plaza-Connected Open Area or Arcade in connection with Mixed Buildings), Section 74-82 (Through Block Arcades), Section 85-05 (Special Pedestrian Arcades) and Section 85-06 (Special Plazas) shall apply, except that bonuses granted under these Sections or a combination of these Sections may not exceed 20 per cent of the maximum *floor area ratio* for the entire *development* set forth in Sections 33-122 and 33-123, nor may the *floor area ratio* of a *residential building* or of the *residential* portion of a *mixed building* exceed the maximum *floor area ratio* set forth in Sections 34-112 and 23-15 by more than 20 per cent, nor except as herein provided, may the maximum *floor area ratio* of the different portions of *mixed buildings* exceed the maximum *floor area ratio* set forth in Sections 35-31 and 35-32.

In no event shall the maximum *floor area ratio* for any *buildings* on a *zoning lot* of less than 25,000 square feet exceed 12.0 including the bonuses.

The *development* may include land in more than one block and the total permitted *floor area* of all *zoning lots* within such *development* may be distributed without regard for *zoning lot lines* and the *buildings* comprising such *development* may be located without regard for the applicable height and setback regulations.

The minimum front setback of a *building* on any portion of a *narrow street* more than 100 feet from First Avenue shall not be less than 10 feet from the *street line*, and required *yards* shall not be less than 20 feet in depth. However, a projecting roof area shall not be considered an obstruction when located within the required front setback area more than 20 feet above *curb level*.

Notwithstanding anything in this resolution to the contrary, the minimum distance between a *residential building* and any other *building* on the same *zoning lot* shall not be less than 40 feet.

For any *residential building*, the required *lot area per room* may be reduced, but in no event shall the required *lot area per room* be less than 15 square feet.

As a condition for granting such authorizations, in each case the Commission makes the following findings:

(a) That the land use intensity and distribution of *bulk* of the total *development* permit better site planning and significantly achieve the specific purposes for which the *Special United Nations Development District* is established.

(b) That the arcades, plazas and parking facilities are provided at appropriate locations to ease congestion in the area. Furthermore, these facilities are designed with escalators or other devices of adequate capacity for easy and continuous pedestrian movement between circulation levels.

(c) That all new *building or other structures*, erected within the *Special United Nations Development District* are in compliance with the special height requirements set forth in Section 85-07 of this Chapter.

85-05

Special Pedestrian Arcades

Floor area bonus for special pedestrian arcades as set forth in this section shall apply to any *development* which the Chairman of the City Planning Commission certifies will generally comply with the design concept dated January 6, 1970 on file with the City Planning Commission.

For the purposes of this Chapter a special pedestrian arcade is a continuous area within a *building* connecting one *street* with another *street*, *plaza*, special plaza, *arcade* or special pedestrian arcade which is accessible to the public from a *street*, *arcade*, *plaza*, special plaza, *court* or *yard*. Connections may be made by means of escalators or other mechanical devices and each such special pedestrian arcade shall be located not more than 25 feet above or below the point of access. This area may be enclosed in whole or part. Where First and Second Avenues are connected by a special pedestrian arcade at a level no higher than the Second Avenue level, such special pedestrian arcade must have a minimum width of 30 feet and a minimum height of 20 feet, and retail and *commercial uses* shall be included along its length. Any other special pedestrian arcade shall have a minimum width of 20 feet and a minimum height of 20 feet in order to receive a *floor area* bonus. Entrance to special pedestrian arcades must be kept open to the public for a minimum of 16 consecutive hours a day.

For each square foot of special pedestrian arcade, a bonus of 6 square feet of *floor area* is permitted, except where such special pedestrian arcade is extended along a *street line* beyond its entrances, only a bonus of three square feet of *floor area* is permitted.

85-06

Special Plaza

Floor area bonus for special plaza as set forth in this section shall apply to any *development* which the Chairman of the City Planning Commission certifies will generally comply with the design concept, dated January 6, 1970 on file with the City Planning Commission.

For the purposes of this Chapter, a special plaza is an open or enclosed area accessible to the public from a *street*, *arcade*, special pedestrian arcade, *plaza*, special plaza, *court* or *yard* directly or by means of escalators or other mechanical devices. Such special plaza shall:

(a) be located not more than 25 feet above or below such points of access; and

(b) have an area of at least 30,000 square feet, a volume of at least 600,000 cubic feet and a minimum height of 20 feet; and

(c) be furnished with benches, chairs or other seating facilities and be illuminated; and

(d) be kept open to the public for a minimum of 16 consecutive hours a day.

Such special plaza may contain works of art, plantings, swimming pools, ice skating rinks, other recreational facilities and anv other obstructions permitted in a *plaza*.

For each square foot of special plaza, a bonus of 10 square feet of *floor area* is permitted.

Italicized words are defined in Section 12-10.

85-07

Limited Height of Buildings

The maximum height of a *building or other structure*, including elevator or stair bulkheads, *accessory* water tanks or cooling towers, chimneys, parapets, arbors or trellises and flagpoles, located within the *Special United Nations Development District* shall not exceed 550 feet above the established grade of the easterly side of 2d Avenue, midway between East 43d and East 45th Streets. Furthermore, no portion of any *building* may be built to a height greater than the present height of the United Nations Secretariate Building within 200 feet west of the westerly boundary of 1st Avenue.

85-08

Location of Curb Cuts

There shall be no more than the following curb cuts for any *developments* on property to be acquired in the *Special United Nations Development District:*

(a) One curb cut on 1st Avenue located not less than 185 feet nor more than 280 feet south of the southern *street line* of East 45th Street.

(b) Two curb cuts on East 45th Street located not less than 175 feet east on the easterly *street line* of 2d Avenue nor less than 175 feet west of the westerly *street line* of 1st Avenue.

Italicized words are defined in Section 12-10.

CHICAGO

ZONING FOR CONSULATES

Consulates are considered the same as "office" uses by the Chicago zoning code. There are no set parking requirements for such uses. It depends on the amount of floor space and number of employees.

As a matter of right, consulates may locate in:

- medium-rise, multi-family residential districts (R-4 thru R-8)
- in limited business districts

Consulates are permiited in those residential districts with the following provisios:

- Not more than 25% of the building's floor space or 4000 square feet, whichever is less, shall be used for office use.

In lower density residential zones, consulates are not permitted.

There is no special exception process for consulates in the Chicago code. They are matter of right uses only in the districts enumerated above.

A memo explaining the Chicago procedure will follow for the record.

contact: Martin Jaffey
American Planning Assoc.
1313 East 60th St
Chicago, Ill 60637
(312) 947-2087

American Planning Association

1313 East 60th Street
Chicago, Illinois 60637
Phone 312.947.2575

Planning Advisory Service

Ms. Marion Morris
Senate Subcommittee on Government
  Efficiency
6222 Dirksen
Senate Office Building
Washington, D.C. 20510

January 19, 1982

Dear Ms. Morris:

The enclosed ordinance provision from the city of Chicago is sent in response to our phone conversation last week.

Foreign consulates are permitted in residential districts provided an important criterion is met. That criterion limits the amount of space which can be devoted to office use. The city of Chicago will allow either a quarter of the building (25 percent of the gross floor space) or 4,000 square feet to be used for business, whichever is greater. The purpose for this provision is to limit the amount of business activity by limiting the amount of area that can used for business. The purpose of limiting the amount of business activity is to blend the consulate in better with the predominantly residential environment of the neighborhood.

The city also grants the planning director the discretion of making the consulate provide parking facilities for the employees.

I'm glad that we could be of service.

Sincerely,

Gregory Longhini
Senior Research Associate

GL:gc

Enclosure: City of Chicago ordinance provision.

ing distance of a main entrance to the use served. (Amend. Coun. J. 7-13-62, p. 7547.)

Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at one time.

(1) Cemeteries. Parking spaces shall be provided in adequate number — as determined by the Department of Development and Planning — to serve the public. (Amend. Coun. J. 3-16-66, p. 6468.)

(2) Church, School, College, and Other Institutional Auditoriums. One parking space shall be provided for each 12 seats.

(3) Convents and Monasteries. Parking spaces shall be provided in adequate number — as determined by the Department of Development and Planning — to serve persons employed or residing on the premises as well as the visiting public. (Amend. Coun. J. 3-16-66, p. 6468.)

(4) Dwellings. One parking space shall be provided for each dwelling unit.

(5) Fire Stations. One parking space shall be provided for each three employees.

(6) Golf Courses. Parking spaces shall be provided in adequate number — as determined by the Department of Development and Planning — to serve the public. (Amend. Coun. J. 3-16-66, p. 6468.)

(7) Libraries, Art Galleries, or Museums — Public. One parking space shall be provided for each 1,000 square feet of gross floor area.

(8) Municipal or Privately-owned Recreation Buildings or Community Centers. One parking space shall be provided for each three employees, plus spaces adequate in number — as determined by the Department of Development and Planning — to serve the visiting public. (Amend. Coun. J. 3-16-66, p. 6468.)

(9) Public Utility and Public Service Uses. One parking space shall be provided for each three employees, plus spaces adequate in number — as determined by the Department of Development and Planning — to serve the public. (Amend. Coun. J. 3-16-66, p. 6468.)

(10) Railroad Passenger Stations. One parking space shall be provided for each three employees, plus spaces adequate in number — as determined by the Department of Development and Planning — to serve the public. (Amend. Coun. J. 3-16-66, p. 6468.)

(11) Schools (Nursery, Elementary, and High). One parking space shall be provided for each three employees.

(12) Housing for Elderly Persons. Parking spaces shall be provided in adequate number — as determined by the Department of Development and Planning. (Amend. Coun. J. 12-1-61, p. 5855; 3-16-66, p. 6468.)

7.12-2 Off-Street Parking—R4, R5, and R6 Residence Districts.

In an R4, R5, or R6 District, all parking spaces required for one or two-family dwellings, shall be located on the same zoning lot as the dwellings served. Parking spaces required for all other uses shall be located on the same zoning lot as the use served, except as provided for as a Special Use; in which case, uses, other than one or two family dwellings may be served by parking facilities located on land other than the zoning lot on which the building or use served is located, provided such facilities are located within 500 feet walking distance of a main entrance to the use served, except that parking spaces required to serve multiple-family dwellings shall be located within 300 feet walking distance of a main entrance to the use served. Off-site parking spaces accessory to a use in R4, R5, or R6 may be located in an R4 or less restricted district, but may not be located in an R1, R2, or R3 District. (Amend. 6-2[illegible]-60, Coun. J. p. 2692.)

Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at one time.

(1) Parking spaces shall be provided as required for uses in the R1, R2, and R3 Districts under the provisions of Section 7.12-1 unless otherwise prescribed hereinafter.

(2) Colleges and Universities. One parking space shall be provided for each three employees, and one parking space shall be provided for each 12 students based on the maximum number of students attending classes on the premises at any one time during any 24 hour period.

(3) Foreign Consulates, Fraternal, Philanthropic and Eleemosynary Uses or Institutions. Parking spaces shall be provided in adequate number — as determined by the Department of Development and Planning — to serve persons employed on the premises as well as the visiting public. (Amend. Coun. J. 3-16-66, p. 6468.)

(4) Fraternities. Sororities and Dormitories. One parking space shall be provided for each five active members, plus one parking space for the manager.

(5) Government-operated Health Centers. Three parking spaces shall be provided for each staff and visiting doctor.

(6) Hospitals. One parking space shall be provided for each three hospital beds, plus one parking space for each three employees (other than doctors), plus one parking space for each doctor assigned to the staff.

(7) Institutions for the Care of the Insane or Feebleminded. One parking space shall be provided for each staff doctor, plus spaces adequate in number — as determined by the Department of Development and Planning — to serve the visiting public. (Amend. Coun. J. 3-16-66, p. 6468.)

(8) Lodging Houses. One parking space shall be provided for each four lodging rooms, plus one space for the owner or manager.

(9) Multiple-Family Dwellings (including apartment hotels). In the R4 and R5 Districts, parking spaces equal in number to 100 percent of the number of dwelling units (including efficiency units) shall be provided. In the R6 District, parking spaces equal in number to 100 percent of the number of dwelling units (including efficiency units) for the first 100 units located within a building, and additional parking spaces equal in number to 60 percent of the number of dwelling units (including efficiency units) exceeding 100 units in a building, shall be provided. For lodging rooms located in an apartment hotel, one parking space shall be provided for each four lodging rooms. (Amend. Coun. J. 1-17-69, p. 4916; 3-10-71, p. 10557.)

(10) One-family Dwellings and Two-family Dwellings. One parking space shall be provided for each dwelling unit.

(11) Private Clubs and Lodges. One parking space shall be provided for each four lodging rooms plus parking spaces equal in number to 10 per cent of the capacity in persons (exclusive of lodging room capacity) of such club or lodge.

(12) Sanitariums, Convalescent Homes, Institutions for the Aged and for Children, Rest Homes, Nursing Homes, Sheltered Care Homes, Homes for the Aged, and Residential Care (Half-Way) Homes.

this comprehensive amendment and rendered non-conforming by the provisions thereof shall be subject to the regulations of Article 6 governing non-conforming uses.

For the purposes of this Section 7.3, uses lawfully established on the effective date of this comprehensive amendment shall be deemed to include those lawfully established after such effective date under a building permit issued prior thereto in the manner prescribed in Section 5.3 (Amend. Coun. J. 4-9-58, p. 7548; 6-15-62, p. 7322; 3-22-74, p. 7982.)

7.3-1. Permitted Uses — R1 Single-Family Residence District.

(1) One-family Detached Dwellings.
(2) Agricultural Uses, including nurseries and truck gardens, provided that no offensive odors or dust are created.
(3) Cemeteries, including crematories and mausoleums, in conjunction therewith if not located within 300 feet of any other property in a Residence District.
(4) Churches, Rectories, and Parish Houses.
(5) Convents and Monasteries.
(6) Golf Courses, but not including commercially-operated driving ranges or miniature golf courses, provided that no clubhouse shall be located within 300 feet of any other property in a Residence District.
(7) Home Occupations.
(8) Libraries, Public.
(9) Day Care Centers; Nursery Schools Non-boarding. (Amend. Coun. J. 7-10-74, p. 8557.)
(10) Parks and Playgrounds, publicly owned and operated.
(11) Schools, Elementary and High, non-boarding and including playgrounds and athletic fields incidental thereto.
(12) Signs, as regulated by Section 7.10.
(13) Temporary Buildings for Construction Purposes, for a period not to exceed the duration of such construction.
(14) Accessory Uses.

7.3-2. Permitted Uses — R2 Single-Family Residence District.

Any use permitted in the R1 District.

7.3-3. Permitted Uses—R3 General Residence District.

(1) Any use permitted in the R1 District.
(2) Dwelling — one-family, two-family, and multiple-family attached or detached including Housing for Elderly Persons. (Amend. Coun. J. 12-1-61, p. 5855.)

7.3-4. Permitted Uses—R4 General Residence District.

(1) Any use permitted in the R3 District.
(2) Apartment Hotels.
(3) Colleges and Universities, but not business colleges or trade schools.
(4) Foreign Consulates, Fraternal, Philanthropic and Eleemosynary Uses or Institutions, provided that not more than 25 percent of the gross floor area or 4,000 square feet — whichever is greater — shall be used as office space.
(5) Hospitals and Sanitariums.
(6) Institutions for the Aged and for Children.
(7) Lodging Houses and Tourist Homes.
(8) Nursery Schools, Boarding.
(9) Private Clubs or Lodges — not operated for profit, provided that not more than 20 percent of the gross floor area or 2,000 square feet — whichever is greater — shall be used as office space.
(10) Schools, Elementary and High, Boarding.
(11) Housing for Elderly Persons, including commissary facilities for the exclusive use of tenants accessible only through the lobby with no advertising or display visible from outside the building. (Amend. Coun. J. 12-1-61, p. 5855; 8-24-70, p. 9067.)

7.3-5. Permitted Uses—R5 General Residence District.

Any use permitted in the R4 District.

7.3-6. Permitted Uses—R6 General Residence District.

(1) Any use permitted in the R4 District.
(2) Restaurants, which may sell liquor in conjunction therewith; Cocktail Lounges; Dress Shops; Gift Shops; Haberdasheries; Valet Shops; Beauty Shops; Barber Shops; Drug Stores and Retail Food Shops, which may sell package liquor. The foregoing uses may be established principally for the convenience and use of guests living in such an apartment hotel as contains not less than 50 dwelling units, which shall be accessible to the public only through an entrance which does not have access directly to a public way or street but is accessible through the lobby only, with no advertising or other display visible from outside the building. (Amend. Coun. J. 4-9-58, p. 7546; 4-7-65, p. 4539; 3-16-66, p. 6467.)
(3) Retail Food Shops — including the sale of package liquor only, and Valet Shops for the exclusive use of tenants, accessible only through a lobby in a multiple-family dwelling containing 50 or more dwelling units with an advertising or display visible from outside the building. (Amend. Coun. J. 4-9-58, p. 7547; 4-7-65, p. 4540.)

7.3-7. Permitted Uses—R7 General Residence District.

Any use permitted in the R6 District.

7.3-8. Permitted Uses—R8 General Residence District.

Any use permitted in the R6 District.

7.4. Special Uses — Use and Bulk Regulations.

The following uses may be allowed as special uses by the Board of Appeals in the districts indicated hereinafter in accordance with the provisions of Section 11.10.
(Amend. Coun. J. 9-19-57, p. 5999.)

7.4-1. Special Uses — R1 Single Family Residence District.

(1) Municipal or Privately-owned Recreation Buildings or Community Centers.
(2) (Amend. Coun. J. 4-9-58, p. 7548.)
(3) Public Utility and Public Service Uses, including:
    a. bus turn-arounds (off-street)
    b. electric sub-stations
    c. fire stations
    d. police stations
    e. public art galleries and museums
    f. railroad passenger stations
    g. railroad right-of-way
    h. telephone exchanges, micro-wave relay towers, and telephone transmission equipment buildings
    i. water filtration plants
    j. water pumping stations
    k. water reservoirs
(4) An Automobile Parking Lot, in a Residence District on a lot not over 75 feet wide which:
    a. abuts at a side lot line a Business, Commercial, or Manufacturing District, or railroad right-of-way; or
    b. is separated only by an alley along a side lot line from property in a Business, Commercial, or Manufacturing District, or from a railroad right-of-way, conforming with the provisions of Section 7.12, and accessory to a Business, Commercial or Manufacturing use located within 500 feet, and solely for the use of the employees and customers of the use to which it is accessory, provided
    c. that such parking lot shall be used solely for the parking of passenger automobiles;
    d. that the parking lot shall be closed between 10 p.m. and 7 a.m.; except as may be otherwise permitted by the Board of Appeals under the provisions of Section 11.7, paragraph (9); (Amend. Coun. J. 4-9-58, p. 7544.)
    e. that each entrance and exit to and from such parking lot shall be at least 20 feet distant from

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET NW.
WASHINGTON, D.C. 20576

In Reply Refer To:
NCPC File No. L9703

JUL 24 1981

Honorable Charles McC. Mathias, Jr., Chairman
Honorable Thomas F. Eagleton, Ranking Minority
Member
Subcommittee on Governmental Efficiency and
the District of Columbia
United States Senate
Washington, D. C. 20510

Dear Senators Mathias and Eagleton:

Reference is made to your request for background information and responses to certain issues relating to S. 854, the Foreign Missions Act, pending in the Senate and which may be considered in hearings by your subcommittee.

As you know, the Commission is a twelve member body created by the National Capital Planning Act of 1952, as amended. It is composed of seven ex-officio members and five appointive members. The ex-officio members are the Secretary of the Interior, Deputy Assistant Secretary of Defense (Installations and Housing), Administrator of General Services, Mayor of the District of Columbia, Chairman of the Council of the District of Columbia, Chairman of the House District of Columbia Committee, and Chairman of the Senate Governmental Affairs Committee. Three of the five appointive members are appointed by the President to six year terms and two are appointed by the Mayor of the District of Columbia to four year terms.

The Commission is the central planning agency for the Federal Government in the "National Capital Region," which is defined as the District of Columbia; Montgomery and Prince George's Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all of the independent cities within the boundaries of such counties. The Commission is charged with preparing and adopting Federal elements of the comprehensive plan for the National Capital and with reviewing from a Federal interest perspective, the District elements of the comprehensive plan. Among the Commission's other responsibilities are the preparation of an annual Federal Capital Improvements Program for the Region, review and approval of Federal and District projects within the District of Columbia, and review and comment on master plans and projects proposed by various Federal and local agencies.

The information and responses below are in the same sequence as the questions and issues raised in your letter.

Nature of the Problem

The Commission understands that S.854 is intended, as James H. Michael, the Acting Legal Advisor, Department of State, stated to the Committee on the District of Columbia of the House of Representatives on June 4, "to provide the Secretary of State with the necessary authority~~, first, to~~ limit and control the activities of foreign missions (in the United States) in light of the constraints imposed by other nations abroad and, second, to assist foreign missions in securing the benefits, privileges and immunities to which they are entitled under international law." As part of the "reciprocity" authority, the bill would vest "in lieu of zoning" jurisdiction in the Commission with respect to foreign mission facilities in the District of Columbia.

In the exercise of such jurisdiction, the Commission would be required to base its determinations solely on criteria set forth in the legislation, including the Federal interest, as determined by the Secretary of State, and the municipal interest, as determined by the Mayor of the District of Columbia, and to give substantial weight to such determinations. The Department of State believes that the transfer of regulatory authority over foreign mission facilities in the Nation's Capital from the District government, acting through the Zoning Commission and the Board of Zoning Adjustment, to the Federal government, acting through this Commission, would establish "a simplified and expedited procedure which takes into account both Federal and municipal interests" while eliminating the existing complex process "which gives inadequate consideration to the Federal interests" and which requires "in most cases a 'special exception' procedure which places on any applicant foreign government the most difficult burdens under the zoning system".

The Commission believes that it has not yet been demonstrated that there is a problem in the operation of the present process for providing for the location of foreign missions and international agencies. On June 11, 1981, the Commission reaffirmed that its policy on the location of foreign missions and international agencies is that contained in the Foreign Missions and International Agencies element of the Comprehensive Plan, which provides that the criteria and plan policies for facilities for foreign missions and international agencies will be implemented through the Zoning Regulations of the District of Columbia and the zoning maps forming a part thereof.

Authority Vested in Commission by S.854

Section (e)(2) of S.854 would divest the District of Columbia Zoning Commission and Board of Zoning Adjustment of the jurisdiction which they presently exercise over the location and use, height, area, and bulk of foreign mission facilities under the Zoning Act (Act of June 21, 1938, 52 Stat. 797, as amended; D.C. Code, secs. 5-413 et seq.) and the Zoning Regulations and vest such jurisdiction in the Planning Commission.

Five Month Time Limit

Although it would be preferable if no time limit were mandated by law, it is probable that the Commission could process applications and make the final determinations which would be required by Section 206 within the five-month period provided therein. The process under Section 206 would be very similar to the Commission's "in lieu of zoning" process at the International Center, as authorized by Public Law 90-553, approved October 8, 1968. The Commission reviews plans for proposed chanceries in the International Center at two stages: preliminary and final site and building plans. The review at the preliminary stage, which normally occurs at the 20 to 30 percent design phase, provides an opportunity for needed guidance and recommendations early in the design before preparation of working drawings. The review of final plans occurs well into the working drawings phase, providing an opportunity to determine whether the previous recommendations have been followed satisfactorily. The timing of submissions is completely dependent upon the schedule of each individual applicant and its architects. Often there is a considerable period between the Commission's action on preliminary plans and the submission of final plans during which the applicant makes design decisions, arranges financing or attends to other matters. During this period, the length of which is entirely at the discretion of the applicant, no part of the submission is pending before the Commission and this time is not part of the review period. The first proposed chancery at the International Center, the Chancery of Ghana, was presented for information purposes in January 1976 and soon thereafter combined preliminary and final plans were reviewed by the Commission. A period of 29 days was required for Commission action on the combined plans, with a total review period of 58 days. Plans for the Chanceries of Isreal, the Yemen Arab Republic, Bahrain, and Kuwait were submitted at preliminary and final stages consistent with the process described. The average time of review of preliminary plans for these four chanceries was 19 days and the average time for the review of final plans was 34 days. Therefore, the average total time required for preliminary and final plan reviews of these chanceries was 53 days. To date, the Commission has reviewed only preliminary site and building plans for the Chancery of Jordan and a period of 57 days was required for this review. The timing of the submission of final plans will be at the discretion of the Embassy of Jordan. The attached table summarizes the information presented above.

Staff and Budget Considerations

In view of the estimated number of applications which would result under Section 206, it appears that minimal additional staff and budget - perhaps one additional staff professional - would be required if Section 206 were enacted.

Federal Rulemaking Requirements

Section 206(b) provides that any determination by the Commission pursuant to Section 206(a) shall be considered "rulemaking" under 5 U.S.C. 553, which generally requires that notice of proposed rulemaking be published in the Federal Register at least thirty days before the effective date of the "rule" and that interested "persons" (defined to include individuals, partnerships, corporations, associations, and public and private organizations) be given an opportunity to participate in the "rulemaking" through written submissions, and, at the option of the agency, oral presentations. Compliance with the time requirements of 5 U.S.C. 553 probably can be achieved within the five month period provided in Section 206. However, the five month requirement may necessitate limitations on oral presentations from interested parties, including members of the public.

Section 106 Review

Section 106 of Public Law 89-665 and the implementing regulations of the Advisory Council on Historic Preservation would require the Commission to afford the Advisory Council "a reasonable opportunity to comment" under Section 206 where properties on, or eligible for inclusion on, the National Register of Historic Places are involved. Conflict with the five month period provided in Section 206 can be avoided by imposing a requirement on the applicant, similar to that applicable to Federal agencies for Federal public buildings in the District of Columbia and to the District of Columbia Redevelopment Land Agency for urban renewal undertakings (37 F.R. 3011 and 37 F.R. 7122, as amended at 39 F.R. 10330) for submission of evidence that compliance with Section 106 of Public Law 89-665 has been completed as part of the application process under Section 206. In any event, any regulatory requirements, such as the procedures of the Advisory Council, would yield or be accommodated to statutory requirements, such as the five month period in Section 206.

NEPA Requirements

Similarly, no significant problems would exist in accommodating the time requirements of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality to the five month period in Section 206. It should be noted that a "negative determination" or "finding of no significant impact" under Section 102(2)(c) of NEPA was made with respect to the Foreign Missions and International Agencies element of the Comprehensive Plan, which dealt with the cumulative impacts of all embassy, chancery, and international agency facilities in the Nation's Capital. It is unlikely that applications under Section 206, involving individual facilities, would be determined to be "major Federal actions significantly affecting the quality of the human environment" so as to require the preparation of draft and final environmental impact statements and to involve the time requirements of the CEQ regulations. It is likely that only environmental assessments, under the CEQ regulations and the Commission's Environmental Policies and Procedures (44 F.R. 64923), will be required. Such environmental assessments can be prepared readily within the five month period in Section 206, even if the Commission were not to impose a requirement that the applicant prepare and submit the assessment as part of the application process under Section 206. In the infrequent or unlikely event an environmental impact statement is required, the time requirements of the CEQ regulations would yield to the statutory time period in Section 206.

Status of Commission Members

Appointive members of the Commission are classified as special government employees serving less than 60 days in a calendar year for purposes of ethics laws and regulations. Appointive members are expected to attend Commission meetings and work sessions aggregating two to three days a month or twenty-four to thirty-six days a year. The planning report accompanying the Foreign Missions and International Agencies element of the Comprehensive Plan estimated that an average of ten chanceries and international agencies each year would be newly established, expanded, or relocated. The estimate was based on historic trends and is significantly larger than the number of such cases before the Zoning Commission and the Board of Zoning Adjustment since 1976 (a total of ten cases, or an average of two per year). Whether the Commission were to process two or ten applications each year under Section 206, is unlikely that the number of hearing and decisional days, together with the present number of meeting days, would exceed sixty in any year so as to change the status of appointive members of the Commission.

Commission's Current Role

The Commission's current role with respect to the location and use of foreign missions facilities (except at the International Center) is limited to the review of all proposed amendments to the zoning regulations and maps, including planned unit developments, after public hearing before the Zoning Commission but prior to final Zoning Commission action there, and of applications to the Board of Zoning Adjustment for chancery use in districts in which such use is permitted as a "special exception" under the Zoning Regulations. Attached is a tabulation of such cases since 1976.

I hope that the information provided will be useful to the subcommittee.

Sincerely,

Helen M. Scharf

Helen M. Scharf
Chairman

cc: Commission Members and Alternates

NATIONAL CAPITAL PLANNING COMMISSION
FOREIGN MISSIONS AND INTERNATIONAL AGENCIES ZONING CASES,
July 1, 1976 to June 30, 1981

Case No.	Case	Date of Application	Referral to NCPC
Z.C. 78-20/76-28F	France - Planned Unit Development and zone change for Chancery, 39th Street and Reservoir Road, N.W.	12/27/76	1/18/79
Z.C. 78-30/77-17F	Italy - Planned Unit Development and zone change from R-1-A to R-5-C for the Embassy/Chancery of Italy at 2800 Albemarle Street, N.W.	6/6/77	5/15/79
Z.C. 78-29	Iran - Request to Amend zoning map from R-1-A to D/R-1-A for premises at 2500 30th Street, N.W. for Chancery use.	11/13/78	NCPC initiative
Z.C. 78-19/76-14F	World Bank - Planned Unit Development and zone change from R-5-C to C-3-B for site in block bounded by 19th, 20th, F & G Streets, N.W.	7/8/76	3/13/79
Z.C. 79-13	International Monetary Fund - Planned Unit Development and zone change from R-5-C to C-3-B for construction of addition to existing IMF building at 19th & G Streets, N.W.	7/13/79	3/14/80
BZA - 12822	Bangladesh - Request to use 2501 Massachusetts Avenue, N.W. as a Chancery located in a D/R-1-B District.	10/24/78	11/7/78
BZA - 12826	Saudi Arabia - Request to use 2929 Massachusetts Avenue, N.W. as a Chancery located in a D/R-1-A District.	10/24/78	11/7/78
BZA - 13361	Indonesia - Request for expansion of existing Chancery at 2020 Massachusetts Avenue, N.W. and 2025 P Street, N.W. located in D/C-2-A and SP-1 Districts.	8/8/80	10/22/80
BZA - 13495	Singapore - Request for expansion of existing Chancery at 1824 R Street, N.W. into existing adjacent structure.	2/2/81	2/12/81
BZA - 13517	Philippines - Request for permission to construct a new Chancery at 17th Street and Massachusetts Avenue, N.W. in a SP-1 District.	4/22/81	5/11/81

Summary
National Capital Planning Commission Reviews of Proposed Chanceries at the International Center

	Preliminary Site & Building Plans				Final Site and Building Plans				
Chancery	Date of Request	Date Request Rec'd NCPC	Date of NCPC Action	Elapsed Time (Days)	Date of Request	Date Request Rec'd NCPC	Date of NCPC Action	Elapsed Time 1/ (Days)	Total Elapsed Time (Days)
Ghana	12/8/75	12/10/75	1/8/76 2/	29	3/9/76	3/10/76	4/8/76	29	58
Israel	10/11/78	10/12/78	11/2/78	21	3/14/76	3/14/76	4/5/79	22	43
Yemen Arab Republic	12/20/78	12/26/78	1/4/79	9	6/27/79	7/2/79	8/2/79 3/ 9/13/79	73	82
Bahrain	6/5/79	6/5/79	6/28/79	23	9/12/79	9/12/79	10/4/79	22	45
Kuwait	9/12/79	9/12/79	10/4/79	22	8/12/80	8/14/80	10/2/80	19	41
Jordan	10/10/79	10/10/79	12/6/79	57	4/				57 (to date)

1/ Comparable to review periods for applications to District of Columbia Zoning Commission and Board of Zoning Adjustment.

2/ Formal action not taken. Item was presented to Commission for information purposes only because submission materials were incomplete. Action on Final Site and Building Plans represented combined preliminary and final action.

3/ Commission referred project back to the Yemen Arab Republic requesting further study of certain site improvements. Final action taken on 9/13/79.

4/ No submission of final plans to date.

In Reply Refer to:
NCPC File No. L9703

April 17, 1981

James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

Reference is made to your legislative referral memorandum of April 9 requesting our views by the close of business today on S.854, the "Foreign Missions Act of 1982".

Your requirement of an immediate response precludes our placing S.854 before the Commission for formal review. However, the Commission previously informally discussed the proposed legislation, particularly the matters in Section 206 relating to the location and design of foreign missionsbuildings in the District of Columbia. Section 206 appears to adequately address some of the concerns expressed by Commission members.

We understand that the Congress will very likely enact some form of "reciprocity" legislation and that such legislation will very likely vest authority over the location and design of foreign mission buildings in the District of Columbia in an agency of the Federal government. It is my strong view, which I believe is shared by other members of the Commission and by its staff, that the National Capital Planning Commission, as the central Federal planning agency in the National Capital, is the appropriate agency to perform that function.

Sincerely,

Helen M. Scharf

Helen M. Scharf
Chairman
bc: Griffith
Shear
Scharf Chron. ✓
File L9703 wk
DHShear/jbb

DHS
4/17/81

In Reply Refer to:
NCPC File No. L9703

May 13, 1981

James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

My letter to you of April 17, in response to your legislative referral memorandum of April 9, expressed my views on those provisions of S.854, the "Foreign Missions Act of 1982," relating to the location and design of foreign missions buildings. It did not constitute an expression of Commission views on the bill, which is under continuing discussion by the Commission. When the Commission completes its deliberations, its views will be reported to you. Until then, it should be understood that there is no formal Commission position on the legislation.

Sincerely,

Helen M. Scharf
Chairman

bc: Griffith
Shear
Scharf Chron.
File L9703
DHShear/jbb/5/13/81

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET NW.
WASHINGTON, D.C. 20576

In Reply Refer To:
NCPC File No. L9703

MAY 20 1981

Mr. James M. Frey
Assistant Director for Legislative
Reference
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Frey:

Reference is made to your legislative referral memorandum of April 9 and my letters to you of April 17 and May 13 concerning those provisions of S.854, the "Foreign Missions Act of 1982," relating to the location and design of foreign mission facilities in the District of Columbia.

The Commission discussed the legislation at some length at its meetings on May 7 and 14. The Commission was advised that the Chairman of the Senate Subcommittee on Governmental Efficiency and the District of Columbia has requested the Secretary of State, by letter of May 5, for justification for the legislation and for information as to requirements in other capitals applicable to the location and use of foreign mission facilities. Accordingly, the Commission determined that it would defer comment on S.854 until such information has been received and made available to the Commission.

I am enclosing for your information a copy of the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital which contains the Commission's existing policy with respect to such facilities.

Sincerely,

Helen M. Scharf

Helen M. Scharf
Chairman

Enclosure

NEWS FROM THE NATIONAL CAPITAL PLANNING COMMISSION
June 11, 1981

PRESIDENTIAL APPOINTEES

Helen M. Scharf, Chairman
Bruce Kirschenbaum
T. Eugene Smith

D. C. MAYORAL APPOINTEES

Ann Hume Loikow
Robert J. Nash

EX-OFFICIO MEMBERS

Secretary of the Interior
Dep. Asst. Secretary of Defense
Administrator of General Services
Chairman, Senate Governmental Affairs Committee
Chairman, House District Committee
Mayor of the District of Columbia
Chairman of the Council of the District of Columbia

EXECUTIVE DIRECTOR

Reginald W. Griffith

COMMISSION REAFFIRMS FOREIGN MISSION LOCATION POLICIES

At its meeting on June 11, the National Capital Planning Commission adopted and released the following statement concerning the location of facilities for foreign missions and international agencies in the District of Columbia:

> "The Commission believes that it has not yet been demonstrated to the Commission that there is a problem in the operation of the District zoning process for providing for the location of foreign missions and international agencies. In this context, the Commission reaffirms that the Commission's policy on the location of foreign missions and international agencies is that contained in the "Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital" which the Commission adopted on October 6, 1977, as amended, which provides that the proper method of implementation is through the local zoning process, specifically in sections 313.82 and 313.92 which provide that the criteria and plan policies for facilities for foreign missions and international agencies will be implemented through the Zoning Regulations of the District of Columbia and the zoning maps forming a part thereof, an instruction which the Zoning Commission of the District of Columbia subsequently has carried out."

Executive Director's
Recommendation - May 29, 1981

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET NW.
WASHINGTON, D.C. 20576

NCPC File No. 1885

PROPOSED CHANCERY FOR THE REPUBLIC OF THE PHILIPPINES 1300 BATAAN STREET, N.W. - APPLICATION TO BOARD OF ZONING ADJUSTMENT (BZA DOCKET NO. 13517)

Report of the Commission to the Board of Zoning Adjustment for the District of Columbia

June 4, 1981

The Commission advises the Board of Zoning Adjustment for the District of Columbia that the proposed location of a new chancery for the Republic of the Philippines at 1300 Bataan Street, N.W. (BZA Docket No. 13517), is consistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital. In addition, the Commission recommends that the Board of Zoning Adjustment approve the application for variances from the minimum off street parking requirements of the District of Columbia Zoning Regulations.

* * *

BACKGROUND AND STAFF EVALUATION

Description of the Proposal

The Government of the Republic of the Philippines proposes to construct a new chancery building covering an entire small tranazoidal shaped city square, S-181, bounded by Massachusetts Avenue, N.W., Bataan, N and 17th Streets. The lot area consists of only 9,531 square feet and is zoned SP-1. The Philippine Government proposes to construct a building of 23,176 square feet at a floor-area-ratio (FAR) of 2.5 built to a height of 56 feet exclusive of the penthouse. The allowable height under SP-1 zone district regulations is 65 feet while the maximum FAR allowed is 2.5.

Most building heights in adjacent blocks are in the 90 foot range, if of recent construction, while older structures are generally in the 40-45 foot range. FAR's are generally over 2.5.

The structure will have a four story section covering the largest portion of the lot and a smaller two story section. There will be a basement level containing an employee's cafeteria, food preparation and storage area and other building support facilities and restrooms. All four sides of the structure will be extensively landscaped including the main entrance of the chancery which will be located along Bataan Street.

The new structure will provide office space for approximately 12-14 employees including the Ambassador and space for displays and receptions. The exiting chancery will be retained as a chancery annex.

Parking for eight automobiles will be provided on the ground level of the two story portion of the proposed chancery paralleling 17th Street. The garage will have its combined entrance/exit on N Street.

Currently the site is used as a parking lot for Philippine Embassy employees working at the existing chancery located at 1617 Massachusetts Avenue directly across the Avenue from this site.

Under the provisions of the D.C. Zoning Regulations (Sec. 4603.1) "in areas mapped D, R-5-C, R-5-D, or SP, a chancery is a permitted use, provided that the Board of Zoning Adjustment determines after a public hearing that the proposed chancery is not incompatible with the present and proposed development of the neighborhood." To determine this the review standards of Sec. 4603.2 and the processing provided in Sec. 4604, which requires comments to be requested from, among others, the National Capital Planning Commission, the U.S. Department of State and the Commission of Fine Arts if the chancery is in its area of jurisdiction must be met.

Specifically, the BZA must find that the following parking requirements of Sec. 4603.25 are to be met:

> "Except for chanceries located in our R-5-6 or R-5-D District, off-street parking spaces will be provided at a ratio of not less than one such space for every eight hundred (800) square feet of gross floor area devoted to chancery use."

Only eight spaces are proposed to be provided in the new chancery and the Government of the Philippines is requesting from BZA a variance from their requirement which would result in the chancery having to provide 29 spaces. In addition to this variance, the applicant is also requesting a variance from the required size of one of the parking spaces from 19 x 9 feet to a smaller size of 15 x 9 feet due to a constraint caused by the building's architectural configuration.

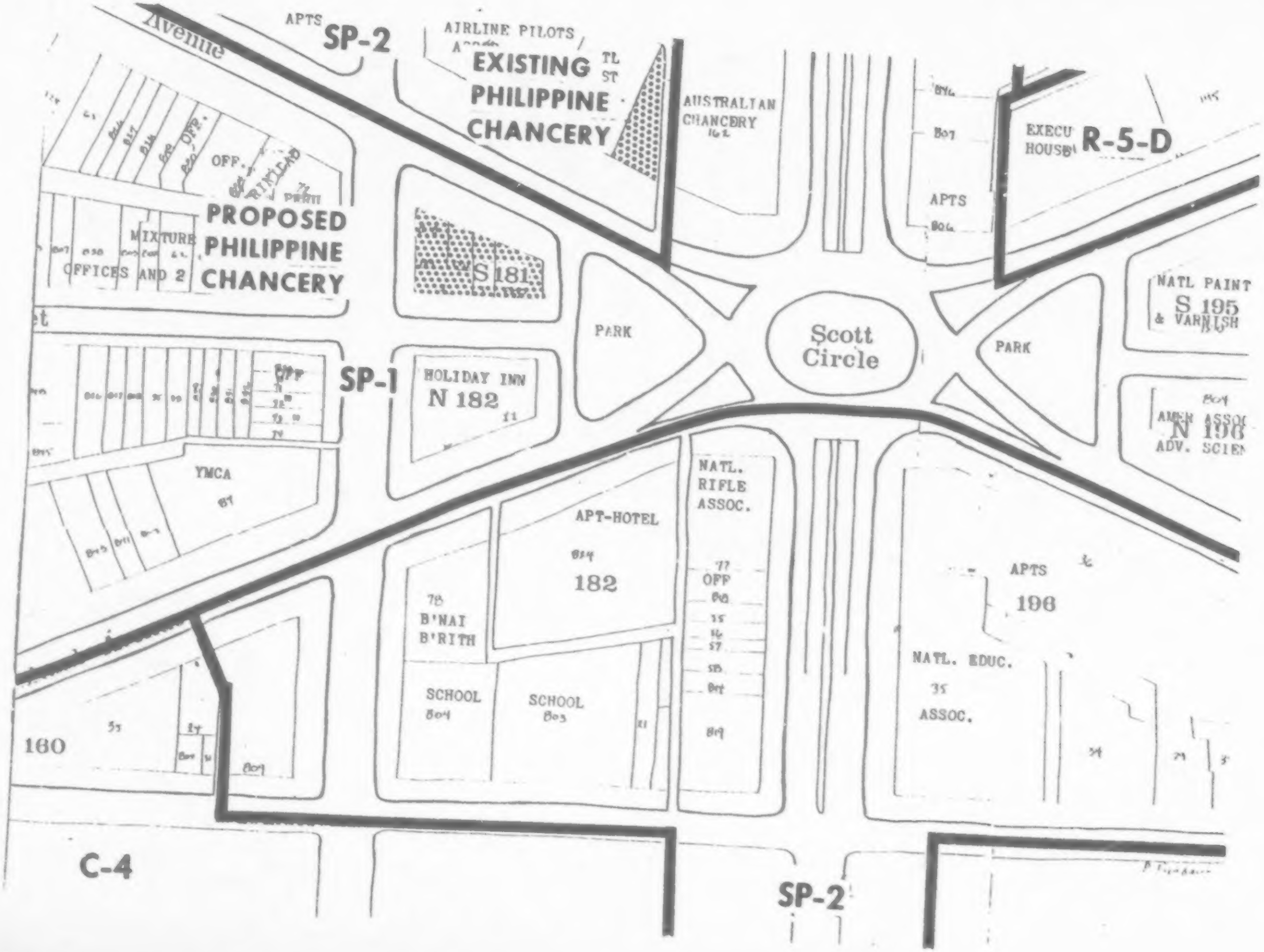
Staff Evaluation

The proposed Philippine chancery site is located in an area depicted on the "Foreign Missions and International Agencies" diagram (NCPC File No. 04.00/100.00-28747) of the Comprehensive Plan for the National Capital approved for new chancery locations. The Foreign Mission and International Agencies element specifically addresses the area in which the Philippine Chancery is proposed to be located. This element of the Comprehensive Plan contains a plan policy for this area which reads as follows:

> "313.64 Massachusetts Avenue, N.W. (West)
> The existing concentration of Chanceries, Chancery Annexes, and Combined Chancery/Embassies in the area along Massachusetts Avenue, N.W., between Scott Circle and 35th Street, should be retained as a unique area for diplomatic facilities in the National Capital. The existing character of the area should be preserved and its qualities enhanced. Existing smaller buildings should be retained in residential use where practicable."

In addition, this proposal is consistent with other sections of this element such as the Goal, the Objectives and two specific criteria of the Plan that foreign missions should give preference to locations on designated special streets and places and be served by public transit to reduce parking requirements. As major elements of the plan for the Federal City, Massachusetts Avenue and Scott Circle are considered part of the special streets and places system of the National Capital. The variances from the parking requirements appear warranted based on the design and configuration of the structure on this limited site. In addition, these reduced requirements as proposed would not adversely affect this neighborhood which is so well served by the close-by Dupont Circle Metro Station and the numerous bus lines located on most of the major streets in this area.

In summary, the proposal for a new chancery for the Philippine Government is fully consistent with the Comprehensive Plan for the National Capital and will be compatible with the present and proposed development of the neighborhood in which it is proposed to be located.


Avenue
APTS SP-2
AIRLINE PILOTS
EXISTING PHILIPPINE CHANCERY
AUSTRALIAN CHANCERY
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APTS
PROPOSED PHILIPPINE CHANCERY
MIXTURE OFFICES AND 2
OFF.
S 181
PARK
Scott Circle
PARK
NATL PAINT & VARNISH
S 195
AMER ASSOC ADV. SCIEN
N 196
SP-1
HOLIDAY INN
N 182
YMCA
NATL. RIFLE ASSOC.
OFF
APT-HOTEL
182
B'NAI B'RITH
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NATL. EDUC. ASSOC.
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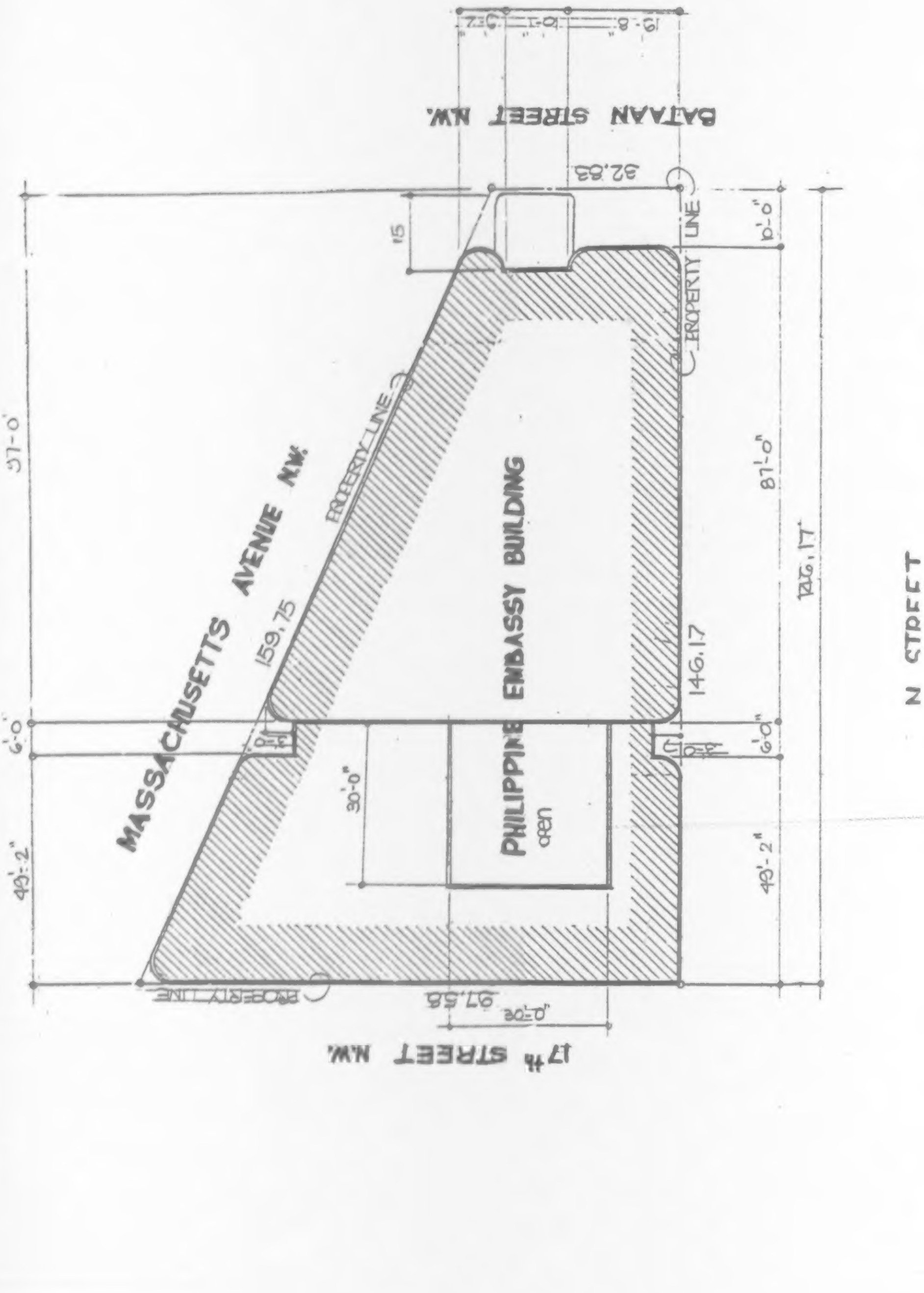
MASSACHUSETTS AVENUE N.W.
PHILIPPINE EMBASSY BUILDING
open
PROPERTY LINE
PROPERTY LINE
PROPERTY LINE
BATAAN STREET N.W.
17th STREET N.W.
N STREET
159.75
146.17
126.17
97.58
32.83
37'-0"
6'-0"
43'-2"
30'-0"
3'-0
6'-0"
81'-0"
6'-0"
43'-2"
15
30'-0"
19'-8"
1'-0
7'-2

LETTERS AND MEMORANDUMS CONCERNING FEDERAL PREEMPTION OF STATE AND LOCAL LAW

State of California
Department of Justice
George Deukmejian
(PRONOUNCED DUKE-MAY-GIN)
Attorney General

March 18, 1982

Honorable Charles McC. Mathias, Jr.
Chairman of the Subcommittee on
Governmental Efficiency and the
District of Columbia
United States Senate
Washington, D.C. 20510

Dear Senator Mathias:

California Attorney General George Deukmejian has asked me to respond to your recent letter in which you requested our opinion of S.854, in particular section 207.

The impact of section 207 would seem to invalidate various state and local laws and regulations which are inconsistent with federal actions under the Foreign Missions Act. We are concerned that this would allow federal government to override traffic, motor vehicle, even some penal sanctions at the state and local level. We do not believe that this preemption clause is necessary to guarantee diplomatic reciprocity.

I, on behalf of this office, therefore request that section 207 be amended to provide a more limited form of preemption.

Thank you for requesting our opinion.

Most cordially,

RODNEY J. BLONIEN
Special Assistant Attorney
General

RJB:bt

[illegible]
[illegible]
Chief, Civil Division
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Principal Counsel
Opinions and Advice
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JAMES G. KLAIR
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659-4017

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858-3889 D.C. Metro

April 1, 1982

The Honorable Charles McC. Mathias, Jr.
358 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Mathias:

You have requested my views on the preemption provisions of S.854, the proposed Foreign Missions Act of 1982.

I have no disagreement with the bill's laudable purpose -- to afford the State Department the flexibility needed to respond in this Country to discriminatory treatment of U.S. missions abroad. However, I am troubled by the broad State and local preemption contained in Section 207 of the bill. That preemption, which is keyed solely to the discretion of the Secretary of State and to no objective standard, applies to conferrals or denials of any "benefit". The latter term has the broadest possible meaning and includes authorizations to acquire real property, "public services", "protective services", and "such other benefits as the Secretary may designate". Section 202(a)(1).

Clearly, under a plain reading of the bill, this preemption provision could have a significant impact on local government. Zoning ordinances, building, plumbing and electrical codes, and police services could be affected. And nothing is salvaged by the Senate Foreign Relations Committee Report's assertion that Section 207 does not preempt municipal zoning "so long as those requirements do not interfere with the exercise of the Secretary's discretion". S.Rept. No. 97-283, 97th Cong., 1st Sess. (1981). As we both know, a court is more likely to pay attention to the plain language of Section 207 than to open-ended dicta in a Committee report.

In addition to preempting local law, S.854 could affect important provisions of State law. The State, of course, has promulgated a model building, electrical, and plumbing code for local governments. See Md. Code, Art. 41, §257J. In addition, the protections and procedures embodied in Maryland's real property laws and even its Consumer Protection statute could be impacted by S.854 in its present form.

It is not clear how many localities in Maryland would be affected by S.854. However, it is likely that our State has more foreign missions than most. For example, the Yellow Pages for the Maryland suburbs outside Washington, D.C., lists eight missions. Obviously, Baltimore has some too.

I think it important that State and local governments retain their sovereignty over the purely local functions sought to be preempted by S.854. Nothing in the materials and reports forwarded to me convinces me that the purpose of S.854 can be achieved by intergovernmental cooperation rather than preemption. For this reason, I strongly urge your opposition to this feature of the bill.

Sincerely,

Stephen H. Sachs

SHS/bw

TYRONE C. FAHNER
ATTORNEY GENERAL
STATE OF ILLINOIS
160 NORTH LA SALLE STREET
CHICAGO 60601

TELEPHONE
793-3500

July 9, 1982

Senator Charles Mathias
Chairman, Subcommittee on Governmental
Efficiency and the District of Columbia
6222 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Mathias:

We have carefully reviewed the provisions of S.854 and the reports which accompanied the bill, and are taking this opportunity to respond to your request for our views regarding S.854, particularly Section 207 entitled "Preemption."

We believe that S.854 outlines an admirable national policy. If enacted, the bill will effectively put foreign nations on notice that all inequitable restrictions placed upon our foreign missions abroad will be reciprocated in the United States. In addition, we believe that S.854 will discourage discriminatory and unfair treatment of our missions abroad.

We do, however, have one concern which pertains to Section 207 of S.854. This provision bestows enormous discretion upon the Secretary of State in matters which are inherently state and local in nature. Section 207, effectively, invalidates state and local laws and regulations which are inconsistent or may interfere with federal guidelines set forth by the Secretary of State to implement S.854.

We do not feel that the Secretary needs the preemptive powers outlined in Section 207 in order to accomplish the goal of S.854. State and local governments have always been sensitive to the concerns involving foreign diplomats and foreign missions, and willing to aid federal officials reach a desired result. This policy will not change, therefore Section 207 may be unnecessary.

Further, Section 207 could create confusion relative to which traffic, motor vehicle, zoning, building code and historical preservation laws foreign nations should comply with: local or federal.

Our concern is compounded by the broad language enunciated in Section 207, which makes it possible to invalidate local laws and regulations, but fails to provide state and local authorities with any guidance respecting their role in the implementation and enforcement of S.854. Although we do acknowledge a need for a consistent policy of administrating the provisions of S.854, broad preemptive powers and accomodation given to the Secretary of State is unnecessary to guarantee diplomatic reciprocity.

We would favor S.854 with appropriate changes in Section 207, which would alleviate our concerns.

Thank you for the opportunity to comment on S.854 and for taking our concerns into consideration.

Very truly yours,

TYRONE C. FAHNER
ATTORNEY GENERAL

BY: Paul P. Biebel Jr.
PAUL P. BIEBEL, JR.
First Assistant Attorney General
160 N. LaSalle St., Rm. 900
Chicago, Illinois 60601
(312) 793-3813

PPB:MJH:kje
cc: Michael J. Hayes,
A.A.G.

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

April 23, 1982

Senator Charles McC. Mathias, Jr.
Chairman, Subcommittee on Governmental
Efficiency and the District of Columbia
Committee on Governmental Affairs
6222 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mac:

Thank you for your letter of April 8 soliciting my opinion on the possible effects of Section 207 of the Foreign Missions Act of 1982.

I am deeply troubled by the preemption provision of the bill. Enhancing the ability of the State Department to respond to restrictions imposed on American diplomatic facilities and diplomats abroad is a laudable objective. But the means to be employed as set forth in Section 207 would undermine local powers needed for the health and safety of all of the residents of New York and other cities. I am concerned that this provision would allow the State Department to override local zoning and building codes, and other local laws.

The sweep of this provision is far too broad. The amendment you plan to offer on the Senate floor circumscribes well this far-reaching provision and I have written to Senators D'Amato and Moynihan to encourage their support. The amendment would have the practical effect of enhancing the flexibility of the Secretary in his conduct of foreign policy, while intruding as little as necessary upon internationally recognized state and local prerogatives. Thank you for leading the fight on this issue.

All the best.

Sincerely,

Edward I. Koch
Mayor

National
League
of
Cities

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Executive Director
Alan Beals

February 22, 1982

The Honorable Charles McC. Mathias
Chairman, Subcommittee on Governmental
 Efficiency and the District of Columbia
United States Senate
358 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Mathias:

The National League of Cities urges the Subcommittee on Governmental Efficiency and the District of Columbia to delete the preemption provision of the Foreign Missions Act of 1982 (S. 854). The purpose of the bill--to give the State Department the authority to enforce diplomatic reciprocity and thereby discourage the discriminatory treatment of United States' missions abroad--does not justify the unnecessary preemption of basic state and local powers.

Section 207 of S. 854 invalidates state and local laws and regulations which are inconsistent with federal actions under the Foreign Missions Act. We do not believe that this sweeping preemption clause is necessary to guarantee diplomatic reciprocity. The Vienna Convention on Diplomatic Relations (requiring that the "receiving State shall either facilitate the acquisition on its territory, in accordance with its laws . . . of premises necessary for [the foreign] mission . . .") does not call for the invalidation of laws and regulations, including those of municipal governments. We are concerned that Section 207 would allow the State Department to override traffic, motor vehicle, and historic preservation laws and zoning and building codes. The preemption provision makes possible the invalidation of laws and regulations throughout the Nation: every state has at least one foreign embassy consulate, or chancery.

We do not believe that the sweeping preemption of Section 207 is necessary to guarantee diplomatic reciprocity. Thank you for taking our concerns into consideration.

Sincerely,

Alan Beals

Alan Beals
Executive Director

cc: Members of the Subcommittee on
 Governmental Efficiency and the
 District of Columbia

1932 - 1982

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Pete Wilson
Mayor of San Diego
Executive Director:
John J. Gunther

February 18, 1982

The Honorable Charles McC. Mathias
Chairman, Subcommittee on Governmental
Efficiency and the District of Columbia
6222 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Foreign Missions Act of 1982, S.854

Dear Senator Mathias:

The Conference of Mayors has now reviewed with some interest the provisions of S.854 and the Report (97-283) accompanying the Bill out of the Committee on Foreign Relations. We have one concern which we wanted brought to your attention. Section 207 of S.854 would provide for the preemption of municipal (and other) acts and, presumably, ordinances if they were found to be inconsistent with this act. Very significant discretion is vested in the Secretary of State by this Act to determine benefits to be granted or denied to foreign missions.

Our concern, then, is that local governmental entities may well be subjected to determinations under this Act which would preempt local authority where there is no assurance that the interests of the local government will be considered in the preemption decision. The assurance in the Committee Report that municipal zoning would not be preempted "so long as those requirements do not interfere with the exercise of the Secretary's authority under that (section 205) section," provides little comfort as it falls, again, solely on the discretion of the Secretary.

It is unclear in any event whether the Secretary needs preemption powers. Local governments throughout the United States have always demonstrated a keen concern for the needs of the United States in the conduct of foreign affairs and it would probably be sufficient to require of local governmental officials

UNITED STATES CONFERENCE OF MAYORS
1620 EYE STREET, NORTHWEST • WASHINGTON, D.C. 20006 • (202) 293-7330

that they consult with and cooperate with the Secretary in the determinations he will make under this act. Local government officials are in unique positions to advise the Secretary on a host of local concerns and how best to effectuate his desired result. Among other issues, local officials can assist the Secretary in coordinating with zoning and land use decisions, the adequacy of parking and the availability of all other public services the foreign mission will need.

While the Conference of Mayors does not have specific policy on diplomatic missions, the Mayors called in 1979 for greater federal involvement, both in planning and financial support, in the role that local governments perform in providing protective services to diplomatic personnel, foreign missions and visiting dignitaries. It could be inferred that the Mayors would want similar participation in other basic matters regarding the location of missions and the provision of other public services to those missions.

Thank you for the opportunity to comment on S.854; we look forward to working with you on the bill.

Sincerely yours,

John Gunther

John J. Gunther
Executive Director

FLORIDA LEAGUE OF CITIES, Inc.
201 WEST PARK AVENUE
TALLAHASSEE, FLORIDA 32302 · TELEPHONE (904)222-9684

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March 19, 1982

Honorable Lawton Chiles
United States Senator
437 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Chiles:

This is in regard to S. 854 (Foreign Missions Act of 1982). As we understand, S. 854 was reported out of the Senate Foreign Relations Committee with a provision (Section 207) which had the effect of preempting state and local laws and regulations as they may have applied to consular offices of foreign governments located in cities. The purpose of such a provision was to give the State Department the authority to enforce diplomatic reciprocity and thereby discourage the discriminatory treatment of the United States' missions abroad.

However, we feel strongly that it is unnecessary for the Federal government to preempt state and local laws in order to accomplish this purpose. The twenty cities in Florida which have foreign consular offices in them are in unique positions to advise and assist the Secretary of State on the local concerns and how best to accomplish the desired results on the local level. We feel, as the Committee does, that Articles 21 and 41(1) of the Vienna Convention on Diplomatic Relations do not require, nor do they intend, such a sweeping preemption of Federal, state and local law in order to accomplish the purpose of diplomatic reciprocity.

Therefore, we urge you to support the Governmental Affairs Committee amendment which completely strikes Section 207 and replaces it with a new Section 206. This new section provides that "the recommendation of the Secretary of State as to the Federal interest in any state or local proceeding or determination involving the according of benefits, privileges, or immunities to foreign missions within the jurisdiction of the respective state or local government shall be given substantial weight." We feel that this concept is more illustrative of the way in which intergovernmental relations can be most effective.

Thank you for your assistance,

With kind regards, I am

Sincerely,

Raymond C. Sittig

Raymond C. Sittig
Executive Director

1922

OFFICIAL PUBLICATION
THE FLORIDA MUNICIPAL RECORD
MEMBER NATIONAL LEAGUE OF CITIES

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Washington, D.C. 20540

April 20, 1982

TO : Senate Subcommittee on Governmental Efficiency and the District of Columbia
Attn: Marion Morris

FROM : American Law Division

SUBJECT : Preemption of Certain State and Local Laws by the 1961 Vienna Convention on Diplomatic Relations

Reference is made to the Subcommittee's inquiry and to our associated telephone conversation with Ms. Marion Morris of the Subcommittee's staff, on April 15, 1982, concerning the above-captioned subject.

Specifically, the Subcommittee seeks citations to provisions of the 1961 Vienna Convention on Diplomatic Relations, 23 U.S.T. 3227, which may have preemptive legal effect upon certain state and local laws referenced generally in "Foreign Missions Act of 1982," S. Rep. No. 97-329, 97th Cong., 2d Sess. 42 (1982) (Minority Views of Messrs. Mathias, Eagleton, Rudman, Levin, and Sasser) [hereinafter cited as Senate Report]. The types of state and local laws noted in the Minority Views to the Senate Report include zoning regulations; building, plumbing, electrical, and fire codes; tax codes; police powers and penal codes; historic preservation, motor vehicle registration, traffic, and consumer protection laws.

It is our understanding that the term "preemption," in the present context, denotes reference to the familiar rule of American constitutional law which accords "Treaties" status as "Supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding," U.S. Const., Art. VI, Cl. 2. It was early decided, of course, that the Supremacy Clause of the Constitution requires the preemption of state law which is inconsistent with an existing treaty; see Ware v. Hylton, 3 U.S. (3 Dall.) 199 (1796), and cases listed in The Constitution of the United States of America--Analysis and Interpretation, 92d Cong., 2d Sess. 484-86 (1973), S. Doc. No. 92-82.

At the outset it may be noted that the Vienna Convention on Diplomatic Relations enjoins upon persons having diplomatic privileges and immunities a duty to respect the domestic laws of the receiving State. Thus, Article 41(1) of the Convention provides that--

> Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. . . .

In its official Commentary concerning Article 41(1) of the Convention [Draft Article 40(1)], the International Law Commission stated that--

> [I]n general it is the duty of the diplomatic agent and of all persons enjoying diplomatic privileges and immunities, to respect the laws and regulations of the receiving State. Immunity from jurisdiction implies merely that the agent may not be brought before the courts if he fails to fulfill his obligations. The duty naturally does not apply where the agent's privileges and immunities exempt him from it. Failure by a diplomatic agent to fulfill his obligations does not absolve the receiving State from its duty to respect the agent's immunity. Report of the International Law Commission Covering the Work of its Tenth Session, April 26 - July 4, 1958, 53 Am. J. Int'l L. 230, 287-88 (1959).

The nature of a diplomatic agent's duty to respect the domestic laws of the receiving State is further underscored by scholarly commentary. Denza observes that--

> The modern theory is that certainly in regard to his private acts and probably even in regard to his official acts a diplomat is subject as to substance to the laws of the receiving State except where those laws make a specific exemption in his favour, either to give effect to an international rule (as in the case of exemption from tax or social security obligations) or as a matter of domestic policy. To regard a diplomat as not merely protected by his immunity from enforcement of the laws of the receiving State but exempt from liability under them would produce absurd results in practice. It would mean that a diplomat could pay a debt and then sue for recovery of the money on the basis that it had been paid in the absence of any obligation. It would mean that where a diplomat took out insurance against a motor accident, his insurers while accepting his premiums could escape making payment in the event of an accident by pleading that the insured was under no liability to compensate. It could lead to an absurd position where immunity was waived, since the defendant could again raise his status in order to dispute liability. E. Denza, Diplomatic Law 264 (1976).

Similarly, Sen observes that--

> [T]he diplomat is expected to respect the laws and regulations of the receiving state. He should do nothing to violate such laws himself nor should he encourage or connive at violation of the laws by others. A diplomat is, no doubt, exempt from the jurisdiction of the receiving state but this only means that he cannot be proceeded against in that state for any violation of the laws. His immunity does not mean that he need not observe the laws--in fact he is expected to respect such laws in the interest of comity. Thus, a diplomat is expected to observe the traffic rules, which are framed for the well being of the citizens, and the health regulations necessary for public health. It is also his duty to see that servants and persons under his control do not violate the laws and regulations of the receiving state, and if they do so, to see that they are adequately punished. He should also refrain from giving shelter to fugitives from justice and surrender persons wanted in connection with violation of local laws. B. Sen, A Diplomat's Handbook of International Law and Practice 77 (1979).

In light of Article 41(1) of the Vienna Convention, as well as the associated ILC and scholarly commentary, it seems reasonable to infer that persons enjoying diplomatic privileges and immunities are subject generally to state and local laws within the receiving State. Moreover, the generality of the principle enunciated by Article 41(1) suggests the substantive applicability of most of the state and local laws noted in the Minority Views to the Senate Report, notwithstanding that the Convention itself makes no direct reference to these specific enactments. Accordingly, it would seem that persons enjoying diplomatic privileges and immunities could properly be deemed subject, under Article 41(1), to state and local laws concerning zoning; building, plumbing, electrical, and fire codes; historic preservation, motor vehicle registration, traffic, and consumer protection laws.

Whether any of the foregoing types of state and local laws could actually be enforced against persons enjoying diplomatic privileges and immunities would seem largely to depend upon the particular status of an individual within the diplomatic hierarchy as well as the nature of the individual's conduct. For example, individuals having the status of a "diplomatic agent" are exempt from the criminal jurisdiction of the receiving State and virtually all civil and administrative jurisdiction, Article 31(1). On the other hand, individuals in the status of "administrative and technical staff of the mission," while possessing similar immunity from the criminal jurisdiction of the receiving State, enjoy civil and administrative jurisdictional immunity only as to acts performed within the course of their duties, Article 37(2).

In contrast to the absence of any Convention provisions specifically referencing the types of state and local laws previously noted, the Convention does contain a number of Articles which seem directly preemptive of state and/or local taxing powers. See, for example, Article 23(1) (exempting mission premises from taxation), Article 28 (exempting official fees of the mission from taxation); Article 34 (general exemption from all dues and taxes, personal and real, national, regional, or municipal); and Article 39(4) (exempting movable property of a deceased member of the mission from succession and inheritance duties).

In the area of state and local police/penal powers, apart from the jurisdictional immunities already noted in connection with Articles 31 and 37 of the Convention, the treaty contains a number of additional provisions which, in a given situation, could preempt criminal law enforcement at the state and local level. See, for example, Article 22(1) (inviolability of the mission premises); Article 24 (inviolability of the mission archives and documents); Article 26 (freedom of movement and travel for members of the mission); Article 27 (inviolability of official correspondence of the mission, diplomatic couriers, and the diplomatic bag); Article 29 (inviolability of a diplomatic agent); Article 30 (inviolability of the residence and property of a diplomatic agent); and Article 40 (inviolability and immunity of diplomatic personnel and property passing through a third State).

It should be noted that the foregoing treaty provisions do not exempt persons enjoying diplomatic privileges and immunities from the duty, under Article 41(1) of the Convention, to respect the laws of the receiving State, including, of course, the criminal laws thereof. The cited provisions do seem, however, to have potentially preemptive effects upon any actual enforcement of state and local criminal laws, particularly in the context of such police activities as arrest, search, trial, imprisonment, and the like.

David M. Sale

David M. Sale
Legislative Attorney

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Washington, D.C. 20540

January 20, 1982

TO : Subcommittee on Governmental Efficiency and the District of Columbia
Attention: Marion Morris

FROM : American Law Division

SUBJECT : Applicability of Local Zoning Ordinances to Location of Foreign Diplomatic and Consular Premises

Reference is made to the Subcommittee's inquiry concerning the above-captioned subject and to our telephone conversation of January 19, 1982, with Ms. Marion Morris of the Subcommittee staff. Specifically, the Subcommittee seeks identification of provisions in the 1961 Vienna Convention on Diplomatic Relations, 23 U.S.T. 3227, and the 1963 Vienna Convention on Consular Relations, 21 U.S.T. 77, which may be relevant in determining whether foreign diplomatic and consular premises are subject to local zoning ordinances.

Although neither of the foregoing Conventions expressly address this issue, the applicability of local zoning ordinances to the location of foreign diplomatic and consular premises in the United States might be inferred from a number of treaty provisions. Thus, with respect to the Vienna Convention on Diplomatic Relations, Article 21(1) provides that--

> The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way. (Emphasis supplied.)

The negotiating history of the Convention suggests that the reference in Article 21(1) to the law of the receiving State, as well as the alternative wording of the Article, is in deference to national and local property law restrictions. Thus, one commentator notes that the Article reflects--

> the desire of a number of governments to ensure that the article was worded in such a way that they would not be obliged to change their constitutional or property law in order to meet their obligations under the Convention. Two kinds of provision were liable to cause difficulty. The first was a prohibition on aliens, or on foreign States, from holding title to land. When there was no specific exception such as occurred in the legislation of the United States, District of Columbia, or in that of the Union of South Africa such a provision would either make it necessary for title to be vested personally in the Ambassador or preclude the foreign State from holding more than the leasehold to its embassy. A second legal rule which produced a similar result was a provision, common to Communist legal systems, that all land was the property of the State. Rather than make clear that the words "acquire and hold premises" did not necessarily imply a freehold title, the Commission formulated the article in the alternative in order to meet this difficulty: "The receiving State must either permit the sending State to acquire on its territory the premises necessary for its mission, or ensure adequate accommodation in some other way." E. Denza, Diplomatic Law 76 (1976) [footnotes omitted].

On the basis of the text and the drafting history of Article 21(1), therefore, it seems that the acquisition by the sending State of diplomatic premises in the receiving State is subject to the local property laws of the latter. Although the drafting history of the Article seems to reflect a particular concern with regard to local property law restrictions governing the acquisition of "title" to land, the text of Article 21, which refers broadly to the "laws" of the receiving State, would seem to justify the applicability of other relevant local laws such as those pertaining to property zone restrictions. Moreover, it is the text of Article 21(1) which would likely be accorded interpretative primacy under contemporary international law principles of treaty interpretation; see Articles 31 and 32 of the 1970 Vienna Convention on the Law of Treaties, S. Ex. L., 92d Cong., 1st Sess. (1971).

Assuming the threshhold applicability of local zoning ordinances to the location of foreign diplomatic premises, Article 21(1) nevertheless seems ambiguous concerning the nature of the receiving State's facilitation obligation in the face of possibly contradictory local law. In the case of local zoning restrictions, however, it would seem arguable that the duty to facilitate acquisition of premises for use by the sending State is substantially met where the receiving State assists in locating the foreign diplomatic premises in areas beyond a locally restricted zone. Such an interpretation of Article 21(1) would seem to accommodate both the required deference to local law and the duty of the receiving State to facilitate acquisition of diplomatic premises for the sending State. Concerning the nature of the receiving State's facilitation obligation, Denza notes that--

> A request by the United States for an explanation of the term was not met . . . [P]robably . . . the term was intended to suggest administrative cooperation within the framework of the law. It thus lays an administrative duty on the receiving State in all cases, even where there are no legal barriers to the mission's own efforts, but if needs are not met through housing or building difficulties there will be no breach of the Convention. Denza, supra at 77.

Possibly further reinforcing the applicability of local zoning ordinances to the situs of foreign diplomatic premises is the general obligation of all diplomatic personnel to respect the laws of the receiving State. Accordingly, Article 41(1) of the Convention provides that--

> Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. . . .

In this connection, Denza explains that "[s]tates do in general accept their liability to conform to local law in such matters as obtaining planning permission before carrying out structural alterations to their premises. The law cannot of course be enforced--no agents of the receiving State may enter to ensure that fire precautions or building safety regulations are being complied with;" Denza, *supra* at 267.

With regard to the Vienna Convention on Consular Relations, Article 30(1) contains language substantially similar to that of Article 21(1) of the Vienna Convention on Diplomatic Relations. Article 30(1) of the former provides that--

> The receiving State shall either facilitate the acquisition on its territory, *in accordance with its laws and regulations*, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way. (Emphasis supplied).

Article 30(1) appears to present the same issues previously noted in connection with Article 21(1) of the Vienna Convention on Diplomatic Relations. Again, it would seem that the duty to facilitate can be reconciled with the deference to local law where the receiving State endeavors to promote the location of consular premises beyond a locally restricted zone.

In language identical to that of Article 41(1) of the Vienna Diplomatic Convention, Article 55(1) of the Vienna Consular Convention provides that--

> Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State.

In accordance with the previous discussion, the foregoing provision similarly might be deemed generally supportive of the proposition that foreign consular premises are subject to local zoning restrictions.

David M. Sale
Legislative Attorney

1932 - 1982

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Executive Director:
John J. Gunther

April 12, 1982

Dear Senator:

The Foreign Missions Act, S 854, will be coming to the Senate floor soon after your return from the Easter recess. A number of amendments to the bill will be offered, and I want to share the views of the Conference of Mayors with you on one of these proposed amendments to be offered by Senator Mathias.

For local governments throughout the United States, the issues of greatest concern in the bill are those relating to the new power vested in the Secretary of State to preempt local authority with no assurances that the interests of the local government will be considered, and the proposal to create a Foreign Missions Commission for the District of Columbia. Senator Mathias will be offering amendments which would cure these defects.

As written, section 207 of the bill would allow the Secretary of State, without any standards of review or any obligation to consult with local government, to preempt state and local regulations relating to zoning and land use, health, safety, welfare, local taxation, and so on. There is simply no need for this power to be given to the Secretary. State and local governments have already given great weight and deference to federal authorities in matters concerning foreign affairs.

Specifically, the Secretary using his authority under section 207, could preempt a local decision withholding zoning or sewer extension approval from a proposed consulate despite the fact that those decisions were made fully in accordance with the local government's comprehensive plan. Similarly, under the language as drawn, the Secretary could require that certain tax exemptions be given to chanceries and their officials, that additional local police resources be allocated to a chancery area, thereby withdrawing them from other areas of the city, or require other actions that rightfully should be decided at the local level. This power over local affairs is very substantial, and there has been no showing whatsoever that it is needed for the Secretary to achieve the purposes of the Foreign Missions Act.

UNITED STATES CONFERENCE OF MAYORS
1620 EYE STREET, NORTHWEST • WASHINGTON, D.C. 20006 • (202) 293-7330

The Mathias amendment creates a forum for discussion between the State Department and the local government and provides that the interests of the State Department be given substantial weight. Surely the states and local governments have demonstrated their adaptability and willingness to support the Department in its regulation of foreign affairs. We urge your support of the Mathias amendment.

Section 206, relating to the District of Columbia, is also a problem. There has been no showing that the District of Columbia, through its existing zoning and appeals process, has reached conclusions that are either harmful or unresponsive to the desires of the State Department. In fact, the District has performed admirably under its home rule powers in granting benefits to chanceries or embassies. Those decisions have accounted both for the interests of the State Department and the interests of the citizens of the District.

There is no reason to challenge the District's home rule powers in circumstances where the federal interest is already protected by representation on local boards; there have been no complaints about the existing process; and, the Secretary already has considerable power over the location of foreign missions. That power would be expanded, even if the Mathias package of amendments is adopted.

The Conference of Mayors believes that the Mathias package will do much to foster intergovernmental cooperation in the placement and regulation of foreign missions, and we urge your support of the amendment.

Sincerely,

John Gunther

John J. Gunther
Executive Director

JJG/pl

**National
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of
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Executive Director
Alan Beals

April 9, 1982

Dear Senator:

The National League of Cities opposes provisions of the Foreign Missions Act of 1982 (S.854) which reduce the limited home rule powers of the District of Columbia and preempt basic state and local powers. We strongly believe that the provisions establishing the Foreign Missions Commissions for the District of Columbia (Section 206) and preempting state and local authority (Section 207) are inappropriate and unnecessary. We urge you to support Senator Mathias's amendment to delete Section 206 and modify Section 207 to prevent preemption of state and local authority.

The purpose of the bill -- to give the State Department the authority to enforce diplomatic reciprocity and thereby discourage the discriminatory treatment of United States' missions abroad -- does not justify reducing the already limited home rule powers of the District of Columbia and infringing the governmental authority of states and local governments where a foreign mission is located. We are not aware that either the District of Columbia or any state or local government had denied or granted governmental benefits or privileges to foreign missions in a way that adversely affects the ability of the United States to insure diplomatic reciprocity for United States' missions. Until such evidence is presented, we are strongly opposed to this unjustified intervention in state and local matters.

Section 206 would establish a Foreign Missions Commission and authorize it to establish regulations for the location of foreign mission property in the District of Columbia. The District of Columbia recently overhauled its location procedures in this area at the request of the Department of State and has established adequate procedures for dealing with foreign missions.

Section 207 allows for the preemption of state and local actions which "confer or deny any rights with respect to any foreign mission contrary to this [bill]." Because Section 204 gives the Director of Foreign Missions the authority to provide "benefits to foreign missions on such terms and conditions as the Secretary [of State] may approve" and Section 202 defines benefits very broadly, including the acquisition of real property, public services, transportation, and protective services, Section 207 may provide the Department of State with the discretion to preempt state and local traffic, motor vehicle, and historic preservation laws and zoning and building codes.

We believe that Section 206 should be eliminated so that the District of Columbia's already limited home rule powers are not further eroded; and that Section 207 should be modified so that states and local governments are required to give substantial weight to federal concerns, but that the Department of State does not have the authority to preempt state and local decisions.

Sincerely,

Alan Beals

Alan Beals
Executive Director

THE BAR ASSOCIATION
OF THE DISTRICT OF COLUMBIA
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April 13, 1982

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The Honorable Charles McC Mathias, Jr.
Chairman, Subcommittee on Governmental
Efficiency and the District of Columbia
Committee in Governmental Affairs
United States Senate
Washington, D.C. 20510

Re: Foreign Missions Act
of 1982 (S. 854)

Dear Senator Mathias:

This is in answer to your letter of March 30, 1982, requesting the Bar Association's reaction to the Foreign Missions Act of 1982 now pending in the Senate. The Bar Association, upon recommendation of the Council of the District of Columbia Affairs Section and the Chairman of the International Law Committee, fully supports the bill if the bill is passed with the amendments which you are proposing.

We oppose Section 206 as it now appears in the bill and strongly urge the complete deletion of the section. Not only does the section violate the principles of Home Rule but it is unnecessary and costly. The District's recent overhaul of its zoning process, as it relates to the location of Foreign Missions, has been working well and there has been no formal complaint from the Department of State to date. The cost of implementing Section 206, if it were to pass, is estimated to be $1,000,000.00. This seems a needless expense for a government which is attempting to restrain spending.

We also oppose Section 207 which preempts all federal, state and local laws which confer or deny benefits with respect to any foreign mission inconsistent with the act. Under this section, as it is now written, the laws of the District of Columbia - as well as the laws of municipalities throughout the fifty states relating to zoning for chanceries and Consulates, local building, plumbing, electrical and fire codes, traffic laws and state motor vehicle laws - could be invalidated in situations involving foreign missions. Federal environmental and historic preservation laws could also be affected. This is a clear violation of the Home Rule principle.

We strongly urge that Section 207 be revised in accordance with your proposed amendment. This amendment gives ample attention to the federal interest and provides the proper balance between the federal and local interests in situations involving foreign missions.

We also support your amendment which deletes the exemption of the Department of State from the requirements of Section 553 of Title 5 of the United States Code. We are of the opinion that such exemption is unnecessary and that the publicity involved in the rulemaking process would enhance the chance of realizing diplomatic reciprocity. Futhermore, should the office of Foreign Missions wish to claim exemption from the rulemaking process for national security reasons or in connection with the proper conduct of foreign relations it has ample authority to do so under the Administrative Procedures Act of 1946, as amended, as well as the Regulatory Reform bill now before the Senate.

We are opposed to the provisions in the bill which repeal the Chancery Act of 1964. This federal law, which amends the District of Columbia zoning law to protect low density residential districts from incompatible chancery use, is in accordance with well established principles of zoning law and no extenuating circumstances have been demonstrated to warrant its repeal. We fully support your amendment which deletes the repeal of this Act.

You have our support in your endeavor to amend the Foreign Missions Act of 1982.

Best wishes.

Respectfully,

Frank J. Martell
President

STATE DEPARTMENT CORRESPONDENCE AND PAPERS

DEPARTMENT OF STATE
Washington, D.C. 20520

JANUARY 28 1982

Dear Mr. Chairman:

On behalf of the Department, I would like to express our appreciation for the opportunity for the Department's witnesses to testify before the Subcommittee on Monday, January 25, on the proposed Foreign Missions Act.

In connection with your upcoming report on the Act, we thought it would be helpful to provide additional information regarding the role and function of the proposed Office of Foreign Missions. In this respect, I am enclosing a copy of our letter to Senator Percy which outlines these matters. I hope that you will find this information helpful in your consideration of the Act, and we would appreciate your including these views in the record of your hearings.

If the Department can provide any additional information, we would be pleased to do so.

Sincerely,

Alvin Paul Drischler
Acting Assistant Secretary
for Congressional Relations

The Honorable
Charles McC. Mathias, Jr., Chairman,
Subcommittee on Governmental Efficiency
and the District of Columbia,
Committee on Governmental Affairs,
United States Senate.

DEPARTMENT OF STATE
Washington, D.C. 20520

December 7, 1981

Dear Mr. Chairman:

On behalf of the Department, I would like to express our appreciation of the recent decision of the Senate Foreign Relations Committee to report out S.854 favorably. The Department strongly supports S.854 and similar legislation passed by the House of Representatives as part of H.R. 4814 (the State Department FY 82-83 Authorization Bill). We hope that the State Department Authorization Act resulting from the forthcoming conference will include the Foreign Missions Act.

In connection with your report on S.854 and as preparation for the upcoming conference on the Authorization Bill, the Department would like to clarify its position concerning the role and function of the proposed new Office of Foreign Missions.

We believe that it is time to send a new signal to foreign governments that United States interests must receive responsible accommodation, in return for which their needs and interests in our country will be accommodated, to the extent possible within existing law and limitations. We believe this legislation will support the efforts of the Administration to strengthen United States interests both here and abroad.

The administration of this bill will be under the overall direction of the Office of the Under Secretary for Management in compliance with the provisions of Section 203(a).

The Honorable
Charles H. Percy,
Chairman, Committee on Foreign Relations,
United States Senate.

This proposed legislation authorizes the establishment of a new Office of Foreign Missions within the Department of State. That Office will be charged with responsibility to assure that treatment accorded the United States Government abroad, and national security interests of our government within the United States, are both taken into account when foreign governments seek to establish or operate their missions within our country. This review will involve the degree of benefits, privileges or immunities which should be accorded each foreign government, in a manner consistent with the international operations of the United States. It is expected that the Office of Foreign Missions will also assure coordination of federal agency actions involving reciprocity under this Act.

Guidance as to reciprocity and national security issues will be provided by the Office of Foreign Missions. The Office of Protocol will continue to perform its traditional functions involving relationships with and assistance to all foreign missions in the United States. In matters involving significant reciprocity considerations, guidance will be provided by the Office of Foreign Missions and steps necessary to assure equality of treatment will be taken by that office after consultation with the Office of Protocol and the appropriate regional bureau.

We believe this management concept will assure effective administration of and comply with the intent of Congress.

As the conference approaches, if the Department can provide additional information for your Committee concerning the implementation of S.854, we would be pleased to do so.

The Office of Management and Budget has advised, that from the standpoint of the Administration's program, there is no objection to the submission of these views.

Sincerely,

Richard Fairbanks
Assistant Secretary
for Congressional Relations

DEPARTMENT OF STATE
Washington, D.C. 20520

February 10, 1982

Sen. Specter:

In discussing S. 854 with Governmental Affairs Staffers, it was brought to the State Department's attention that we should respond to two issues:

1. Minority Views of SFRC report.
2. Ability of D.C. citizens, neighborhood associations or groups to voice their opinions before the new Foreign Missions Commission of the D.C. Government.

Attached are our responses. If you have any questions, please call me.

Rick Weiss

Rick Weiss

632-1492

RESPONSE TO MINORITY VIEWS ON SECTION 206 of S. 854 (SENATE FOREIGN RELATIONS REPORT 97-283, NOVEMBER 30, 1981)

The key issue in Section 206 is whether to achieve a balance between federal and municipal concerns, on a matter which impacts the federal interest, or retain the status quo in which municipal actions are taken without balancing national security interests.

There is a clear federal concern as to both the location and size of foreign government operations in our country. This is especially the case in the capital. Washington is not like other cities, there are obligations involving the federal government.

Chancery facilities of foreign governments accredited to the United States are special facilities, with security, communications and representation requirements that are very different than other types of institutional or office uses. Arrangements made for these governments in Washington directly affect US interests abroad. The great majority of these government missions are relatively small in size, which together with the special security requirements involved often require location in low-density mixed-use areas. They also need to be increasingly concentrated so that limited federal protection resources can provide security. The combination of these factors results in an impact on only a few areas of the District of Columbia.

Section 206, as reported by the Senate Foreign Relations Committee, would limit these uses to mixed-use areas which already contain mixtures of institutional, residential or commercial uses, and would not permit chancery locations in any area which is residential only. (That limitation is in fact an improvement on existing regulations).

In addition, while there is a need to assure that the federal impact and national security concerns involved are part of the process, which is not now the case under municipal procedures, the proposed new District of Columbia Foreign Missions Commission would by statute apply all the normal criteria used in existing zoning procedures. There is no carte blanche under this proposal for chancery locations - they will be permitted only in areas which already have other institutional uses; they will not be permitted in areas that are only residential; and the type of development permitted will be controlled as is the case under existing regulations.

The difference is that federal interests involving national security and reciprocity will be considered and the federal impact weighed along with municipal concerns.

Responses received by the State Department from posts abroad to questions on overseas zoning regulations prepared by the Senate District Subcommittee, indicated in fact that over three-fourths of all countries in the survey provided for resolution of such issues by procedures which include nationally appointed persons or commissions or direct involvement of national ministries. In the other countries involved, locations of United States Missions are in no instance resolved without a similar balancing of their respective national security concerns, and in all cases we must in practice have approval of national authorities.

The Administration's position is not based on an analysis of particular cases, since the need to have federal participation in this process is a basic one because of the federal impact.

It may be pointed out however, that after issuance in 1978 of city regulations discriminating against chanceries, and the passage by the city of a law further inhibiting chancery locations (the city law was vetoed by Congress in 1979) several major test cases were effectively denied, all of which involved locations of important countries directly within the Massachusetts Avenue "Embassy Row" area. Subsequently, additional cases which did not involve important location issues were thereafter decided favorably, which has not in any way altered the serious concerns of both the federal agencies and the foreign governments involved.

Participation by residents and neighborhood groups will be assured through hearings before the proposed Commission. (There is actually a double set of hearings, since planning changes must also be reviewed by the National Capital Planning Commission).

With regard to a substitute bill, S. 1818, offered by the Senate District Subcommittee, the Administration has stated that it will have to oppose any legislation on foreign missions which excludes the provisions of Section 206, and does not protect the national security. S.1818, by excluding the location and size of foreign government operations from key provisions of the bill, would seriously impair any legislation involving foreign government activities in the United States.

S.854 - ADDITIONAL INFORMATION ON SECTION 206

There is a substantial federal interest in both the location and size of official missions of foreign countries within the United States. In this connection, the United States has treaty obligations concerning adequate and secure chancery locations for foreign government missions, principally in the capital city. Foreign mission operations may also involve national security issues in the United States.

Existing municipal policy and regulations however do not result in a balancing of the federal interest with local concerns in the capital and have since 1978 adversely affected the federal interest in this regard.

The Administration's position is not based on an analysis of particular cases, since the need to have federal participation in this process is a basic one because of the federal impact.

One section of the bill (Section 206) therefore would adjust the process by which foreign mission locations are approved in the capital, and achieves a balance between federal, municipal, and congressional interests in the criteria to be applied, as well the process by which such decisions are made. This includes participation of federal, municipal and congressional representatives in the decision process.

Chancery facilities are usually lower-density institutional land uses, which for security and representational purposes are normally required to be located in separate and individually controlled structures. Larger commercial office structures are in most cases unacceptable for security and related reasons. (The requirement to secure communications systems, for example, as well as USG federal protective concerns limit the type of structures which are acceptable). Federal security requirements have also in the last years increased the need to concentrate these uses in areas in which they are already in place. There are only a few areas in the District, meeting these criteria, i.e., lower-density mixed-use areas, in which chancery and other institutional uses are already present, and in which federal security resources are already in place, such as the Massachusetts Ave. "Embassy Row" area.

It is necessary to obtain a balance between federal and local interests in the Nation's Capital, which as the federal capital has obligations unlike other metropolitan centers. This is especially the case where the impact on land use in the

District is quite small, effecting a few lower-density mixed-use areas, and the corresponding impact on the federal interest considerably greater, both here and abroad.

CASE HISTORIES: Municipal authorities have taken a negative position on this federal issue since 1978:

In 1977, the National Capital Planning Commission (NCPC) adopted the "Foreign Missions Element" of the Comprehensive Plan for the National Capital, which was generally supported by the State Department and was approved by representatives of the Mayor, the City Council, and House and Senate District Committees, who are all represented on NCPC. This Plan provided for areas in which diplomatic missions could be located as a matter-of-right, which is one key to a resolution of this problem. Municipal authorities, as required by law, then proceeded to adopt regulations to implement the NCPC plan.

(1) Notwithstanding the NCPC plan and the important federal interest and international obligations involved, the District Zoning Commission in 1978 adopted zoning regulations which, while providing for diplomatic zones (so-called "D" zones) nevertheless abolished the NCPC plan for matter-of-right areas (except for areas which are generally unacceptable to the federal side because of security reasons), and imposed instead a type of "special exception" procedure, in which significant burdens are placed in front of any potential chancery user. (In land use practice, special exception procedures are traditional devices to inhibit land uses). Chanceries became disfavored uses in most zoning Districts even where technically permitted, and were even excluded from certain zones which otherwise permit as a matter of right a wide variety of institutional or commercial uses.

The issuance of these restrictive regulations sent an obvious negative message to city zoning administrators, and has remained a major problem.

(2) The City Council then proceeded in 1979, notwithstanding serious concern expressed by the State Department as to the negative impact on the federal interest, to adopt restrictive city law appoved by the Mayor, which would have seriously impaired the federal interest. The bill would have effectively permitted locations for chanceries only in areas which are often unacceptable for security reasons, such as higher density residential or commercial zoned areas. Congress thereafter in 1979 passed its first into of a city law under the existing Self-Government Act, by disapproving the city bill.

(3) THE CASE RECORD: Individual cases, where necessary, are decided by the DC Board of Zoning Adjustment under the zoning regulations (with certain exceptions), or returned to the Zoning Commission if application is made to amend the regulations.

After issuance of the anti-chancery zoning regulations of 1978, and prior to the Congressional veto of the city bill in December 1979 three important test-cases under the new regulations occurred involving major countries directly on Embassy Row. All three involved minimal local impacts. Two (Bangledesh and Iran) were denied on narrow grounds and the third, (Saudi Arabia) was finally approved after lengthy and hostile hearings, but abandoned by the Saudi Government as a result of the process.

All three involved significant USG concerns, both in the United States and abroad. The local impacts in each case would have been minimal, especially when viewed against the obligation of the United States to facilitate the operation and security of these missions.

Since that time, other cases have proceeded, which have not been of comparable significance either as to location or impact on USG interests, and while approved by the municipal zoning authorities, have in no way relieved the Administration's need to obtain a balanced system.

Review of Board of Zoning Adjustment BZA and Zoning Commission (ZC) Cases Involving Foreign Governments

B.Z.A. 12822 Bangladesh – 2501 Massachusetts Ave., N.W.
(D/R-1-B District)

Application filed: October 12, 1978
Order Issued: June 22, 1979.

Denial on technical grounds, several parking spaces short, etc., under Article 46 of zoning regulations ("D" zones). Parking (4 or 5 spaces) was alternatively to be provided in the rear facing rear yards of residential uses. The Board denied the application, notwithstanding other institutional uses in the immediate area. The State Department has expressed concern as to the importance of locating Bangladesh and the minimal impact of the proposed use, and is of the view that on balance the national interest cleary should have been weighed as against minimal impact on the several nearby residential opponents.

B.Z.A. 12826 Saudi Arabia - 2929 Massachusetts Ave., N.W.
(D/R-1-A District)

Application filed: October 24, 1978
Order Issued: November 9, 1979

Government withdrew after order granted following long delay and Board ruled that application would not be considered as special exception, but would be governed by Section 4603. Board also ruled that gross floor area of the chancery shall include the total amount of space used by the government including all supportive and accessory uses as well as residential space, even though the Regulations provide that only space to be used by the chancery is governed by Article 4603. Saudi Government already occupied part of lot and resulting extension of use would not have created significant impacts.

Z.C. Case No. - Iran - 30th Street, N.W.
(D/R-1-A District)

Application filed: November 17, 1978
Order Issued: September 13, 1979,

Zoning line drawn by Commission through the middle of adjoining lots owned by Iran, part of which were already used for chancery. Application was to include additional carriage house existing on lot for chancery use. Zoning Commission denied, and included in its Findings of Fact comments on changes of Iranian government. State Department believed it is not the purview of the municipality to determine whether foreign government status is acceptable or whether its intended official uses are adequately explained.

D.C. Bill 3-120 further limiting chancery locations, adopted by City Council October, 1979, and approved by Mayor. This minicipal bill was vetoed by Congress December, 1979.

(The District Bill would have seriously impaired the federal interest, by effectively limiting chanceries only to areas often unacceptable for security reasons - high density commercial and apartment zones.)

B.Z.A. 13166 Italy - 2800 Albemarle Street, N.W.
(R-5-C District)

Application filed: December 18, 1977
Order Issued: April 21, 1980

Location already specifically approved in 1977 by NCPC Plan, and Zoning Commission. preliminary approval February 8, 1978. Application for further processing of a Planned Unit Development to determine whether compliance with Zoning Commission Order (under Section 7501. of the Regulations). No procedural or major substantive problems were encountered in the processing of the application. The entire PUD process nevertheless took over thirty months. (A private developer could have constructed over 100 residential sites under existing zoning on the same estate site without undergoing the process imposed on chanceries).

B.Z.A. 13361 Indonesia - 2020 Massachusetts Ave., N.W.
(D/C-2-A District)
2025 P St., N.W. (SP-1 District)

Application filed: August 8, 1980
Order Issued: February 5, 1981.

Parking and landscaping were the focus of the Board.

B.Z.A. 13313 Venezuela - 2712 - 32nd Street, N.W.
(R-1-A District)

Application filed: June 4, 1980
Order Issued: October 6, 1980.

No basic chancery use issue involved. Application requested a variance from side yard requirements to permit a carport to the Embassy building. It was not processed under Article 46 since no chancery use was involved.

B.Z.A. 13459 Singapore - 1826 R Street, N.W.
(R-5-B District)

Application filed: February 3, 1981
Order Issued: July 6, 1981

The Board again ruled in this case that the application be processed under Aticle 46 and not as a special exception. Expansion to adjacent property within approved District. A preliminary matter was raised as to whether the owners of the property must be present at the hearing in addition to a representative of the Government of Singapore, the contract owner. The Board ruled that a letter of authorization from the contract owner was sufficient.

B.Z.A. 13517 Philippines - 1300 Bataan Street, N.W.
(SP-1 District)

Application filed: April 28, 1981
Order Issued: July 27, 1981

Problem encountered as to whether application should be subject to review under Article 46 as property was located exclusively in SP-2 District and, therefore, standards of Section 4101.44 were also applicable. Board treated application solely as a special exception under 4101.44. Issue was raised as to the amount of parking that should be required under the Zoning Regulations. The B.Z.A. imposed a condition that a greater number of spaces be provided even though fewer spaces are normally required for all other office uses in the SP-2 zone.

B.Z.A 13137 Gambia - 1785 Massachusetts Ave., N.W.
(SP-2 District)

Application filed: November 15, 1979
Order Issued: April 21, 1980

Application to use part of fourth floor of building in SP-2 District as Gambian Chancery was granted by the Board as pursuant to Section 4101.44. Only problem encountered was citizen opposition claiming that chanceries should be placed in commerical zones. Board did not concur.

B.Z.A. 13532 France - 2905 Reservoir Road, N.W.

Last Application filed: May 29, 1981
Order Issued: October 15, 1981

Site already approved by NCPC in 1977 approved by Zoning Commission Deccember 8, 1977 and February 8, 1979. B.Z.A. action to assure comformity.

B.Z.A. 13642 Cape Verde - 3415 Massachusetts Ave. N.W.

Application filed: September 9, 1981
Order Issued: December 12, 1981.

Parking issue considered.

Of the cases following the congressional veto of December 1979 and the subsequent introduction of a foreign missions bill, later revised as S.854 and H.R.4814, some involved a

Broad review for compliance with conditions placed on locations already approved by the Zoning Commission, or a minor adjustment such as an extension of a carport. The remaining cases did not involve major location issues. This is neither a record establishing substantial accommodation of major federal agency concerns nor of difficult cases.involved.

COMPROMISE SECTION 206

Section 206 of S.854, either in its original form as introduced in the House and Senate, or as enacted by the House in a compromise version in H.R.4814 (the Fascell-Dellums House compromise), provides for a balance of federal as well as municipal interests.

This balance must include regulatory criteria and a process which ensures recognition of both federal as well as local impacts, and which includes appropriate federal as well as municipal representation.

The compromise Section 206 differs from the provision originally introduced principally by establishing a new Foreign Missions Commission of the District of Columiba, and thereby retaining jurisdiction in the municipal government, instead of vesting authority in the National Capital Planning Commission.

District authorities are disinclined to accommodate this federal interest, notwithstanding the limited impact on the District. If the compromise is not acceptable to the Congress, the alternative for the Administration is to return to the original concept of Section 206, which would vest authority in some federal agency. The alternative to the present compromise, therefore, may be an up or down vote on the floor on separate non-compromise bills. This could resolve the State Department's problems, but is not necessarily the best solution.

We believe on balance that the House compromise Section 206 is a reasonable solution to a problem which will not remain status quo.

Government of the District of Columbia
ZONING COMMISSION

March 25, 1982

The Honorable Charles McC Mathias
Chairman
Sub-Committee on Governmental Efficiency and
  The District of Columbia
Committee on Governmental Affairs
United States Senate
Room 6222 - Dirksen Senate Office Building
Washington, D. C.   20510

Dear Senator Mathias:

The Zoning Commission is in receipt from your office of the additional material submitted to you by the State Department. On behalf of the Zoning Commission and Board of Zoning Adjustment, I am pleased to respond to some of the issues raised in that statement, as follows:

1. The Department of State alleges that "Existing municipal policy and regulations ... do not result in a balancing of the federal interest with local concerns ..." The Zoning Commission and BZA believe that is simply not true. The present regulations obviously do not go as far as the State Department would prefer in allowing chanceries to locate in certain areas without review by the Board of Zoning Adjustment. However, the present regulations clearly do balance federal interest concerns with local concerns. No other office use is permitted in many of the areas where chancery offices are permitted. Furthermore, the Board is required to solicit the impact of the National Capital Planning Commission and the Department of State on applications that are filed. Lastly, the members of both the National Capital Planning Commission, which prepared the Foreign Missions element, and the Zoning Commission, which implemented it, consists of a balance of local and federal members.

2. The Department of State argues that chanceries

"are usually lower-density institutional land uses which for security and representational purposes are normally required to be located in separate and individually controlled structures." The Department has also argued that the Zoning Commission has been unduly restrictive in not allowing chanceries to locate in certain neighborhood oriented commercial districts. These arguments appear to be inconsistent. Furthermore, allowing chanceries in many low density office districts would clearly be inconsistent with the Foreign Missions element.

3. The Department of State argues that the location of chancery impacts on local concerns are small while the corresponding impact on the federal interest is "considerably greater." The Commission and Board are unable to understand this rationale. Clearly, the impact on a neighborhood of a small chancery is likely to be considerably different from a larger chancery. That is precisely the reason that the BZA review was established.

4. The overall record of the treatment of chancery applications that have been considered is one that reveals a generally favorable pattern of disposition on the part of the Board. As has been stated previously, of twelve cases filed, eleven have been heard and decided; one has been delayed at the request of the government. Of the eleven heard, ten were granted and one was denied.

5. The Department of States' characterization of the difference between the NCPC plan and the zoning regulations eventually adopted overstates the issue. The NCPC has formally gone on record stating that the Zoning Commission's regulations did in fact implement the plan. Further, neither the NCPC nor the Department of State ever formally asked the Zoning Commission to amend the adopted regulations.

6. The Department of States' characterization of the approval process for chanceries in Diplomatic and Special Purpose District puts a much greater negative image on the process than it really has. A use permitted with BZA approval is not one that is disfavored; it is one that is deemed compatible with the predominant purpose and charcter of the zone, but that potentially could have impacts that would be unacceptable if the actual operating conditions of the use were not considered and mitigated, if necessary.

7. The Department of State correctly notes that there were three cases considered shortly after the adoption of the Diplomatic District Regulations. The Board and Zoning Commission gave extensive consideration to all three. In the case of Bangladesh, the Board was forced to balance the concerns of the local versus national interests. It was not an easy matter for the Board, and the Department's view that the federal interest "clearly" should predominate is just not warrented by the facts. In the case of Saudia Arabia, this matter again required balance, and in this case, the balance was weighted toward the applicant. Again, the gloss that the Department applies just is not supported by the facts. The case was delayed initially on the agreement of the applicant, the Board determined to make a personal field inspection of the property (an unusual event), and the Board spent many months debating and resolving issues. In the case of Iran, the Department alleges that it is not within the purview of the Zoning Commission to determine whether "intended official uses are adequately explained." On the contrary, if the Department expects a true balancing of local and federal interests to occur, then all parties must state and support their reasons for taking a position. Only then can the balance be struck.

8. The Commission and Board note that after these three initial cases were decided, all of the remaining applications have been processed promptly and in the favor of the applicant. It should be noted that there will always be a shakedown period after the adoption and implementation of new regulations, and it should be expected that if the Foreign Missions Commission is created, it will likely experience such a period also.

9. As to the actions of the District of Columbia Council in creating Bill 3-120, which attempted to limit the authority of the Zoning Commission in determining the proper location of chanceries, both the Zoning Commission and Board of Zoning Adjustment appeared and testified before the appropriate Committees of the Senate and House of Representatives in opposition to that bill.

I appreciate the opportunity to respond to the issues noted in the Department of State's submission. If you have any further questions, feel free to call the Zoning Secretariat at 727-6311.

Very truly yours,

Steven E. Sher for
WALTER B.LEWIS
Chairman

WILLIAM V. ROTH, JR., DEL., CHAIRMAN
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CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON
GOVERNMENTAL EFFICIENCY AND THE DISTRICT
OF COLUMBIA
WASHINGTON, D.C. 20510

February 25, 1982

TO: Governmental Affairs Committee Staff

THRU: Bill Leonard, Staff Director
Subcommittee on Governmental Efficiency
and the District of Columbia

FROM: Marion Morris
Peggy Crenshaw
(Subcommittee Staff)

Roni Wechsler
(Senator Rudman)

SUBJECT: S. 854 - The Foreign Missions Act

The Subcommittee marked-up S. 854 on January 25, 1982. Attached is the draft Committee report and bill proposed to be reported.

We would like to respond to certain items which apparently several of you have received from the State Department, dated February 10, 1982. This material describing the Foreign Missions Act and other background on District of Columbia actions was not made available to the Subcommittee by the State Department.

There are several statements in those materials which we believe are in need of clarification. Attached are the Subcommittee's responses to several issues raised in the State Department packet.

We recognize that this is not the most efficient method of informing you, but the State Department has, thus far, declined repeated offers to set up a Committee staff briefing.

Should you have questions about the attached material, please do not hesitate to contact us.

Attachments (3)

WILLIAM V. ROTH, JR., DEL., CHAIRMAN
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United States Senate

COMMITTEE ON
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SUBCOMMITTEE ON
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WASHINGTON, D.C. 20510

D.C. SUBCOMMITTEE RESPONSE TO STATE DEPARTMENT CHARACTERIZATION OF S. 854: THE FOREIGN MISSIONS ACT

1. "The key issue in Section 206 is whether to achieve a balance between federal and municipal concerns, on a matter which impacts the federal interest, or retain the status quo in which municipal actions are taken without balancing national security interests."

SUBCOMMITTEE RESPONSE:

As is made clear in the attached draft Subcommittee report, a balance of federal and municipal concerns already exists in the composition of the D.C. Zoning Commission and the Board of Zoning Adjustment. Both bodies contain federal representatives.

The Zoning Commission, with two of its five members federal representatives (National Park Service and Architect of the Capitol) adopted a Mixed-Use Diplomatic Overlay Zone for chanceries in 1978. This zoning process had the active participation and concurrence of the Department of State.

In the three and one half years since the Diplomatic zoning, the State Department has not expressed to either the D.C. Zoning Commission or the Board of Zoning Adjustment its perception of a problem with that zoning.

If the State Department has a problem with the Diplomatic zone or the zoning adjustment process, it should approach the appropriate municipal authorities to correct the problem. This is what the Home Rule Act envisioned.

It was intended to avoid having every issue related to the District of Columbia brought to the Congress for resolution.

National secuity interests is a term frequently used by the State Department representative in urging the adoption of S. 854 without change.

At no time have these national security interests been defined or explained to the Senators on the Subcommittee. There has been ample opportunity for State to put forth any national security concerns in private briefings for those with security clearances. No such briefing has occurred.

2. "Section 206, as reported by the Senate Foreign Relations Committee, would limit these uses (chanceries) to mixed-use areas which already contain mixtures of institutional, residential, or commercial uses, and would not permit chancery locations in any area which is residential only."

SUBCOMMITTEE RESPONSE:

Section 206, as reported by the Foreign Relations Committee, would ignore the zoning classification of neighborhoods in the District of Columbia and would leave the determination of land-uses to a federally-weighted "Foreign Missions Commission." Note that Sec. 206 of the Foreign Relations Committee bill does not refer to areas zoned for mixed uses, but simply says "The chancery is in or adjacent to an area, determined on the basis of existing or planned uses, of (A) commercial use, or (B) mixed uses, including residential, commercial, office, or institutional use."

Who is to determine the land uses of any given "area"? This language overrides the District zoning code and abrogates Home Rule principles that the municipal government should be able to zone its own territory, giving due consideration to the federal interest (as is currently expressed in the Diplomatic Zone).

3. "...the proposed new District of Columbia Foreign Missions Commission would by statute apply all the normal criteria used in existing zoning procedures."

SUBCOMMITTEE RESPONSE:

The D.C. zoning law mandates the Zoning Commission to:

> "regulate the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot which may be occupied, the sizes of yards, courts, and other open spaces, the density, of population, and the uses of buildings, structures, and land for trade, industry, residence, recreation, public activities, or other purposes..."

The D.C. zoning enabling act goes on to describe the purpose of the zoning regulations:

> "to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to

> health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein."

In addition the Home Rule Act requires that D.C. zoning "shall not be inconsistent with the comprehensive plan" as adopted by the federal National Capital Planning Commission. The Foreign Missions and International Agencies element of the NCPC plan spells out the criteria to be used by the D.C. Zoning Commission in zoning for foreign mission chanceries.

Chanceries shall be permitted as a matter-of-right to locate only in areas designated for:

> "(a) predominantly office use, except areas under the jurisdiction of the Architect of the Capitol, or (b) mixed uses, including office, commercial, institutional and residential or (2) along or in close proximity to arterial streets in which existing chanceries, chancery annexes, and combined chancery/embassies are concentrated, or (3) of existing commercial activity in which office uses are a significant, major, or principal component;
>
> "Served by public transit (Metrobus and/or Metrorail) to reduce parking requirements;
>
> "Where adequate public facilities, utilities and services, including streets, street lighting, water, sewer, electricity, telephone, and refuse collection, are available or can be provided; and
>
> "Capable of being adequately protected by the Executive Protective Service."

These criteria are special to chancery use only. They are not the same criteria required to be used by the D.C. Zoning Commission for other land uses.

In addition, the D.C. Zoning law requires a public hearing, 30-day notice, and reasonable opportunity to be heard whenever changes in the zoning regulations are proposed by the Commission. None of these procedures are required by the bill reported by the Senate Foreign Relations Committee.

4. "Responses received by the State Department from posts abroad to questions on overseas zoning regulations prepared by the Senate District Subcommittee, indicated in fact that over three-fourths of all countries in the survey

provided for resolution of such issues by procedures which include nationally-appointed persons or commissions or direct involvement of national ministries."

SUBCOMMITTEE RESPONSE:

The D.C. Zoning Commission has two federal representatives of its five members. (Architect of the Capitol and Director of National Park Service).

The D.C. Board of Zoning Adjustment has at least one federal member at all times -- the National Capital Planning Commission -- of its five members. One member of the Zoning Commission rotates membership on the BZA. So, at times, there are two federal members out of five. At other times there is one federal member.

Adequate federal representation is provided in the current composition of the two District zoning bodies.

The Subcommittee, in response to questions of State, learned that in all but two of the twenty-five world capitals reviewed, there was no special commission to determine locations of foreign missions. In the western, democratic countries, the local zoning procedures often appeared to be more restrictive than those employed in the District of Columbia.

Both this report to the Subcommittee and a Library of Congress report to the Subcommittee on how other world capitals handle the location of foreign missions is available for review in the Subcommittee offices.

5. "It may be pointed out, however, that after issuance in 1978 of city regulations discriminating against chanceries, and the passage by the city of a law further inhibiting chancery locations (the city law was vetoed by Congress in 1979) several major test cases were effectively denied, all of which involved locations of important countries directly within the Massachusetts Avenue "Embassy Row" area."

SUBCOMMITTEE RESPONSE:

Since adoption in 1978 of the Mixed-Use Diplomatic Overlay zone, one application for a rezoning for chancery use has been denied by the D.C. Zoning Commission (Country X)

That decision was unanimous including both federal members.

In its findings of fact, the Zoning Commission noted that the government of   had changed since the application was filed. The representative of the new government was unable to provide the Zoning Commission with information on proposed uses of the subject property and noted that his government was consolidating offices in order to decrease costs.

Since the 1978 Diplomatic Zone adoption, the Board of Zoning Adjustment has denied one application (Country X) - out of the 12 cases it has heard. In that case the foreign government wanted to convert the use of its embassy to combined embassy/ chancery use. The site was unable to accommodate the necessary parking for chancery employees. The BZA decision was unanimous including the federal representative.

It is unclear why the State Department did not attempt to persuade this poorer nation with limited resources to locate at the International Center site at Van Ness Street. That location was specifically set aside for chanceries of lesser developed nations.

There are three other cases which may be of interest:

1) Country X was granted its application by the Board of Zoning Adjustment.

   That decision was appealed by various citizens and organizations to the D.C. Court of Appeals. That suit was dismissed when Saudi Arabia agreed not to use the property as a chancery.

2) Country X application to the BZA was postponed at the request of that government as a courtesy to that government. It has been pending for over one year. Normally, the BZA requires applicants to resubmit applications after such a lengthy period. However, they are keeping the file open on this case.

3) Country X had an application pending before the BZA on a property it proposed to purchase. At the request of the State Department, as a courtesy, the BZA postponed its decision on the case.

   In the interim, the sales contract was voided and Country X was unable to purchase the property.

   This was the goal of State in seeking a postponement of a decision.

It is clear that both D.C. zoning bodies have conducted themselves well in chancery cases. Indeed, they have taken the federal interest into consideration and have been especially accommodating of timing decisions to meet the wishes of the State Department or foreign government.

Copies of all chancery case decisions, since 1978, are available for review in the Subcommittee's offices.

The Location of Chanceries Act (D.C. Act 3-120) which was referred to in the State Department material never became law. It was disapproved by the Congress, the first such Resolution of Disapproval since enactment of the Home Rule Act in 1973.

Congress disapproved that law because the City Council was exceeding its authority in attempting to tell the Zoning Commission where chanceries could locate. In disapproving that law, members of this Subcommittee were clear that they reaffirmed the D.C. Zoning Commission and Board of Zoning Adjustment were the lawful bodies to zone and determine where chanceries should locate.

Further, the act would have had the effect of extinguishing the Diplomatic Overlay Zone.

Copies of the hearings on this issue are available in the Subcommittee's offices.

6. "Participation by residents and neighborhood groups will be assured through hearings before the proposed Commission."

SUBCOMMITTEE RESPONSE:

The Foreign Relations Committee bill does not require hearings. Rather, it explicitly says the proposed rezoning for chanceries would be rulemaking under the D.C. Administrative Procedures Act.

The sections cited in the bill provide for a hearing at the discretion of the agency. They provide for notice and opportunity to be heard, but not necessarily in person.

7. "...the Administration has stated that it will have to oppose any legislation on foreign missions which excludes provisions of Section 206..."

SUBCOMMITTEE RESPONSE:

To date, no executive comments have been received on this bill by either the Foreign Relations Committee or the Governmental Affairs Committee.

STATE DEPARTMENT PAPER

FOREIGN MISSIONS ACT

S. 854, the Foreign Missions Act, which was introduced by Chairman Percy is awaiting Senate floor action. The bill was reported out favorably by the Senate Foreign Relations Committee in November. The District of Columbia Subcommittee of the Senate Governmental Affairs Committee has forty-five day sequential referral. The D.C. Subcommittee held hearings on January 25. The House has already passed the Foreign Missions Act as part of H.R. 4814 in October.

The Administration and the Department support the legislative proposal, S. 854, which would authorize the Secretary of State to regulate activities of foreign missions in the United States, generally on the basis of an assessment of treatment received by United States missions abroad, as well as a review of national security issues. This will assist our country to redress the current imbalance between treatment of U.S. missions abroad and foreign government activities here. In this context, it is important to recognize that foreign government missions and their personnel are admitted into and conduct their activities in the United States as a matter of privilege and not of right, under applicable international agreements and diplomatic practice. The authority to regulate contained in this proposed legislation is well within the federal jurisdiction.

In an era of increasing international security concerns and declining federal budgetary resources, arbitrary or unreasonable conditions or increases in costs placed on Americans of operating USG missions abroad, which are imposed by, or permitted by foreign governments, increasingly limit the ability of our missions abroad to effectively perform their functions. In such cases, the ability to place restraints on foreign missions here in the United States may enable the USG to more effectively deal with such problems.

In addition, the substantial federal interest in providing effective security and locations for foreign mission activities in the United States, as well as the need to obtain comparable treatment abroad, would be enhanced under such legislation. An important link in this process is to strengthen the federal role in determining acceptable locations for foreign missions within our country, and importantly in the nation's capital city. This legislation carefully balances the need to accommodate the federal interest with the impact on municipal concerns.

Furthermore, interests of other federal agencies involved in ensuring that foreign mission activities in the United States remain within appropriate limits should also be enhanced by this proposed legislation.

COMMITTEE MARKUP ON S. 854

House - Bill passed (H.R. 4814) on October 29

Senate - Senate Foreign Relations reported out favorably on November 30.

S. 854 contains the proposed "Foreign Missions Act," which will redirect our relations with other countries by applying a policy of reciprocity to any activities of their governments within the United States. This bill is an important initiative in the conduct of our foreign policy and in the protection of our national security.

The bill generally provides needed regulatory authority for the Secretary of State over foreign government actions in the United States, together with a Congressional mandate that reciprocity be the basis of such regulation. It is intended that national security interests be coupled with the reciprocity review in all cases where appropriate.

The bill was adopted by the House on October 29 as part of H.R. 4814 (the State Department FY 82-83 Authorization bill). The Senate Foreign Relations Committee reported the bill out favorably on November 30, with amendments similar to the bill as passed by the House. Hearings on S. 854 were held before the Senate District Subcommittee on January 25, 1982.

We believe that strong support should be given by Committee members to the bill, since this legislation will (a) create a new thrust in the management of foreign relations, (b) tighten the conditions under which foreign governments can operate in our country, (c) assist national security agencies' concerns in the United States, (d) aid in increasing the security of our missions abroad, and (e) at the same time aid in restraining arbitrary cost increases imposed by foreign governments on USG overseas operations. This kind of legislation is overdue, and we believe will be received favorably by constituencies in the various states as a sign that this Congress is moving forward to protect American interests.

While S. 854 has been a Congressional initiative introduced by Senate Foreign Relations Chairman Percy and by House International Operations Subcommittee Chairman Fascell, it has been strongly supported by the Administration and is clearly consistent with its objectives.

The introduction and hearings on this bill have been viewed by American civilian and military overseas personnel as a reflection of concern both by the Congress and by the Administration for the growing security and morale problems and the effectiveness of operation of USG missions abroad.

One section of the bill has created controversy with local authorities of the District of Columbia. That section (Sec. 206) is a necessary part of any legislation that imposes reciprocity on foreign governments and addresses our national security interests in the location and size of foreign government operations in the United States, and especially in the capital.

This issue is important to the United States as well as to the other governments involved, both for political and national security reasons, which affects the operation of our missions abroad.

Notwithstanding the significant federal interest, however, local officials have since 1978 initiated actions which have severely curtailed the ability of the United States to comply with international obligations in our Nation's capital, through restrictive laws and regulations which do not balance the federal interests involved and which discriminate against chancery uses. This issue has already led in December 1979 to the first Senate and House resolutions of disapproval vetoing proposed city legislation, and now needs to be resolved in the context of any reciprocity legislation.

What Section 206 seeks is to establish procedures and regulatory guidelines which require a proper balancing of federal, as well as local, interests. This is necessary in order to assure that the local process accords due balance to the federal impact of its decisions.

The original Section 206 had proposed to place authority for such decisions in a quasi-federal agency, the National Capital Planning Commission (NCPC), which has substantial city representation on it. As a result of concern expressed by the city, a compromise Section 206 was worked out under the auspices of House District Committee Chairman Dellums. The new Section, which was adopted by the House as part of H.R. 4814, leaves jurisdiction in the District of Columbia, which was the principle home-rule issue, and sets up statutory criteria and procedures for the decisional process, which balances federal as well as local interests.

Anything less will not only undermine the Congressional purpose of this legislation, but will leave the federal government still unable to protect the USG interest in the capital. This would result in an inadequate reciprocity bill, and require another legislative initiative to resolve it.

A substitute bill, S. 1818, has been introduced by members of the Senate District Subcommittee which basically would exclude the provisions of Section 206. On the basis of the concerns expressed here, S. 1818 would neither accomplish a policy of reciprocity or the purposes of the enactment of the Foreign Missions Act. By attempting to exclude from federal jurisdiction those matters relating to the location of foreign missions in our country, and eliminating provisions concerning location of foreign missions in the capital, S. 1818 would fail to implement important federal concerns, and would result in a bill that would have to be opposed by the Administration.

STATE DEPARTMENT PAPER

ADMINISTRATION POSITION ON S. 854

The Administration supports passage of the proposed Foreign Missions Act, including the provisions therein concerning the location of foreign government missions and international organizations in the Nation's capital.

The Foreign Missions Act is an important initiative affecting the conduct of our foreign relations and national security, and is strongly supported by this Administration. The Foreign Missions Act has been passed by the House as part of H.R. 4814, and has now been reported out favorably by the Senate Foreign Relations Committee. A substitute bill, S. 1818, has been introduced by members of the Subcommittee for the District of Columbia, principally concerning Section 206.

One section of S. 854 (Section 206), as passed by the House and reported out by the Senate Foreign Relations Committee, affects the location and operation of foreign government activities in the Capital city, a necessary part of any reciprocity legislation, and a link in assuring security for foreign missions and protecting national security interests of the United States.

The United States Government has important treaty obligations concerning adequate and secure chancery locations for official foreign government missions to this country, which affect the interests of United States missions abroad. The significant federal interest involved cannot continue to be met in the Nation's capital under existing municipal policy and regulations which do not balance federal interests with local concerns.

The position of the Administration on this point is a fundamental one--it is neither feasible nor appropriate to provide for consideration by any municipal body of matters affecting foreign relations and national security, without direct federal participation through agencies charged with those responsibilities.

Section 206 therefore involves an adjustment of the administrative process by which foreign mission locations are approved, and achieves a balance between federal and municipal interests in the criteria to be applied as well as the process by which such decisions are made. This includes participation of both federal and municipal representatives in the decision process.

It is important to note that there is already ample precedent in the Nation's Capital for mixed federal-municipal administrative bodies to resolve land-use issues affecting both jurisdictions. What this section proposes, as passed by the House (the Dellums-Fascell compromise) and as reported out by the Senate Foreign Relations Committee, is consistent with that precedent.

The principal examples of mixed federal-municipal bodies already in the Capital city are: the present District of Columbia Zoning Commission, the National Capital Planning Commission (NCPC), the Pennsylvania Avenue Development Corporation (PADC), and Joint Historic Landmark Commissions. It should also be noted that the location of federal buildings is entirely within the jurisdiction of NCPC, which is a mixed municipal-federal body.

The House compromise Section 206 retains the precedent of a mixed body, but unlike the bill as originally introduced, places it within the District government. This was a significant compromise on the part of the Administration, which should now be supported.

The position of the Administration on this matter is clear:

- There is a need for enactment of the Foreign Missions Act, in connection with our efforts to enhance and protect United States interests here and abroad, including establishment of a reciprocity policy;
- There is a substantial federal interest in the operation and location of activities of foreign govvernments in our country;
- There must be a resolution of issues concerning foreign government locations in the Nation's Capital in connection with any reciprocity legislation;
- There must be federal involvement in any process involving decisions on chancery locations, and criteria that recognize federal as well as municipal concerns;
- The decision process must take into account the impact on national security and foreign relations, together with traditional municipal concerns.

Section 206, containing the House compromise, therefore is a "must" provision for the Administration on this legislation, and one which is important to a proper functioning of any reciprocity legislation intended to enhance the protection of the United States interests in this area.

S. 854 also authorizes the establishment of an Office of Foreign Missions in the Department of State, which will enhance coordination between the federal and municipal agencies involved. That office will be responsible, within the Department of State, for providing guidance on issues involving reciprocity and national security, which is necessarily a federal function. The Office of Protocol of the Department of State will continue to perform its normal functions, and will be the primary point of contact for foreign governments and for the District of Columbia on these matters.

While the Department of State through these offices will review proposals of foreign governments with regard to certain issues relating to reciprocity and national security, it is also very important that the subsequent process involving decisions on particular locations be vested in a balanced agency or commission, which will reflect the concerns of both the federal and district agencies charged with responsibility on these issues.

Section 206 of S. 854, either in its original form as introduced in the House and Senate, or as enacted in a compromise version in H.R. 4814 (the Fascell-Dellums House compromise), provides for a balance of federal as well as municipal interests. This compromise is now included in S. 854 as reported out by the Senate Foreign Relations Committee.

The compromise Section 206 of S. 854 differs from the provision originally introduced principally by establishing a new Foreign Missions Commission of the District of Columbia, thereby retaining jurisdiction in the municipal government as well as refining the applicable criteria. It continues to provide both balanced federal and municipal criteria and membership.

District authorities on the one hand are not inclined to accommodate this federal interest, notwithstanding the very limited impact on the District. On the other hand, the federal concern would be more effectively resolved by removing this issue altogether from District jurisdiction. The compromise Section 206 may provide a middle road which incorporates the needs of each side. The compromise will serve the overall interests both of the city and the federal government, which is necessary to retain the partnership of federal and local interests, without which a city administration cannot properly function in the Nation's capital.

A substitute bill, S. 1818, has been introduced which basically would exclude the provisions of Section 206. On the basis of the concerns expressed here, S. 1818 would neither accomplish a policy of reciprocity or the purposes of the enactment of the Foreign Missions Act. By attempting to exclude from federal jurisdiction those matters relating to the location of foreign missions in our country, and eliminating provisions concerning location of foreign missions in the capital, S. 1818 would fail to implement important federal concerns, and would result in a bill that would have to be opposed by the Administration.

STATE DEPARTMENT PAPER

STATUS OF FOREIGN MISSIONS LEGISLATION
H.R. 4814 AND S. 854

House

-- H.R. 4814 (State Authorization Bill) - Passed.

-- Title II of H.R. 4814 contains the Foreign Missions Act/ Diplomatic Reciprocity Bill.

-- Title II - Section 206 (as passed) includes compromise between District of Columbia and House Foreign Affairs Committees (Fascell-Dellums Compromise, worked out between Department of State, District of Columbia and House District Committee members in June/July 1981) concerning control of foreign government chanceries.

-- Section 206 compromise creates Foreign Missions Commission of the District of Columbia to deal with location of foreign missions. District of Columbia gained: (1) Compromise on major jurisdictional issue; Commission remains an integral part of D.C. Government. (2) Maintains Home Rule principle. State gained: (1) Recognition of the federal as well as local interest, through criteria to be used in determining location of foreign missions and membership of the new Commission which balance federal and municipal interests. (2) Timeliness; limits time in regulatory process, while assuring recognition of national security and reciprocity concerns.

Senate

-- S. 854 - Introduced by Chairman Percy April 1, 1981 (same as original House bill). SFRC hearings held July 24, 1981.

-- S. 854 - Sequential referral on Section 206 issue to Senate Governmental Affairs Committee. Mathias District Subcommittee has same jurisdiction as Dellums Committee in House. Senator Mathias introduces S. 1818 November 5, 1981 as substitute for S. 854, which eliminates Section 206 from S. 854. Administration indicates it will oppose S. 1818.

-- SFRC reported out S. 854 on November 30, 1981. SFRC accepted Compromise language of Section 206 as passed by House (Senate Report 97-283 of November 30, 1981).

-- Mathias Subcommittee of Senate Governmental Affairs Committee held hearings on January 25, 1982.

-- House does not want conference on State Authorization until Senate acts on S. 854.

United States Department of State

Assistant Secretary of State
for Administration

Washington, D. C. 20520

March 26, 1982

Dear Mr. Walker:

Your organization recently expressed opposition to the Senate Governmental Affairs Committee on S. 854, the Foreign Missions Act, as passed by the House of Representatives and reported out by the Foreign Relations Committee. You were specifically concerned about Section 207 of the proposed bill.

I would like to clarify that nothing in this bill provides for direct participation by the Secretary of State in any land-use process in any municipality or state, except the District of Columbia as the nation's capital. The Secretary of State will otherwise have only a prior right of veto under Section 205, which can only preclude a foreign government from acquiring a location in any other jurisdiction. If approval is granted by the Secretary to a foreign mission to acquire space in any state in the United States, that jurisdiction has full control over its land-use process and any decisions with regard to such locations. This bill in other words does not affect the land-use process in any jurisdiction other than the capital.

The Department has stated that it intends to consult with state and municipal authorities whose local interests may be affected in connection with the administration of this bill. We would appreciate an opportunity to review the legislation with your organization.

Sincerely,

Thomas M. Tracy

Thomas M. Tracy

Mr. David B. Walker,
Acting Executive Director,
Advisory Commission on
Intergovermental Relations,
1111 20th Street, N.W.,
Washington, D.C.

ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

March 5, 1982

The Honorable William V. Roth, Jr.
Chairman
Committee on Governmental Affairs
3215 Dirksen Senate Office Building
Washington, D.C. 20510

Attn: Miss Pauline Hildebrandt

Dear Mr. Chairman:

This is in response to the Committee's request for the views of the Advisory Commission on Intergovernmental Relations on S. 854,

> To promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of United States missions abroad.

The Commission has not studied the subject matter of this proposed legislation, and therefore has no comments to offer regarding its intergovernmental effects.

Sincerely,

Carl W. Stenberg
Acting Executive Director

United States Department of State

Assistant Secretary of State
for Administration

Washington, D. C. 20520

March 4, 1982

Dear Mr. Chairman:

In connection with consideration of S. 854, the proposed Foreign Missions Act now pending before the Governmental Affairs Committee, I would like to clarify the statutory intent of one provision of the bill, Section 207.

A question has been raised as to the effect of the Section 207 preemption language on state or municipal land use processes, in connection with regulation of the location and size of the foreign missions.

The answer clearly is that state and municipal authorities are not affected, with the exception that the Secretary of State under this bill may disqualify a foreign government from obtaining or retaining official facilities in any location in the United States. There are separate provisions relating to the District of Columbia because of the significant federal interest in the nation's capital.

The provisions of Section 207 require preemption only as to authorities set out in the Act itself. The only jurisdiction in which the Act provides authority for direct federal involvement in land use decisions is the nation's capital. Thus, if a foreign government is not disqualified under this Act from obtaining a location in any other jurisdiction , discretion as to land use decisions remain wholly within appropriate state or local authorities as to any particular location for a foreign mission.

If I can provide further information, please do not hesitate to call me.

Sincerely,

Thomas M. Tracy

Thomas M. Tracy

The Honorable
William V. Roth, Chairman,
Governmental Affairs Committee,
United States Senate.

United States Department of State

Assistant Secretary of State
for Administration

Washington, D. C. 20520

RECEIVED
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MAYOR'S OFFICE

March 26, 1982

Dear Ms. Boosalis:

Your organization recently expressed opposition to the Senate Governmental Affairs Committee on S. 854, the Foreign Missions Act, as passed by the House of Representatives and reported out by the Foreign Relations Committee. You were specifically concerned about Section 207 of the proposed bill.

I would like to clarify that nothing in this bill provides for direct participation by the Secretary of State in any land-use process in any municipality or state, except the District of Columbia as the nation's capital. The Secretary of State will otherwise have only a prior right of veto under Section 205, which can only preclude a foreign government from acquiring a location in any other jurisdiction. If approval is granted by the Secretary to a foreign mission to acquire space in any state in the United States, that jurisdiction has full control over its land-use process and any decisions with regard to such locations. This bill in other words does not affect the land-use process in any jurisdiction other than the capital.

The Department has stated that it intends to consult with state and municipal authorities whose local interests may be affected in connection with the administration of this bill. We would appreciate an opportunity to review the legislation with your organization.

Sincerely,

Thomas M. Tracy

Thomas M. Tracy

Ms. Helen G. Boosalis,
President, U.S. Conference of Mayors,
Mayor's Office,
555 10th Street,
Lincoln, Nebraska.

cc Gunther

DEPARTMENT OF STATE
Washington, D.C. 20520

FEB 18 1982

Dear Senator Mathias:

The Secretary has asked me to respond to your letter of February 4, 1982, wherein you request the views of the Department concerning certain provisions in S.854, the proposed Foreign Missions Act.

This proposed legislation is an important Congressional initiative, supported by the Administration, in the conduct of our foreign relations. The primary aim of S. 854 is twofold: to promote the interests of the United States abroad by establishing a policy of reciprocity with regard to the conduct of foreign government missions in the United States, and to protect the national security interests of the United States.

You have requested the Department's views on the meaning of Section 204(b)(2) and (4), and whether we consider those provisions necessary to accomplish the objectives of the bill.

The Department's understanding of Section 204(b) is consonant with the interpretations contained in the section-by-section analyses in the Senate Foreign Relations Committee's favorable report on S.854 (Sen. Report No. 97-283, Nov. 30, 1981), and the House Foreign Affairs Committee's favorable report on similar provisions in H.R. 3518 (House Report No.97-102, Part I, May 19, 1981). These provisions were subsequently passed by the House as H.R. 4814.

Section 204(b) was drafted with the intention of covering anticipated situations in which it would be necessary and appropriate to invoke the authority of the Secretary of State as provided in S.854, to assure reciprocity with foreign nations and protect the national security interests of the United States. Section 204(b)(2) relates to the protection of national security interests; Section 204(b)(4) relates to disputes that may arise from time to time with foreign governments. Both of these factors may also involve issues of reciprocity.

As both Committee reports have indicated, reasonable flexibility on the part of the United States in dealing with foreign nations and their missions to the United States will place our government in a stronger position to obtain reciprocity and to protect our national security interests. To this end, we consider Section 204(b)(2) and (4) necessary to accomplish the objectives of the bill.

Section 204 of the bill, along with Section 206 dealing with the location and size of foreign missions in our nation's Capital, provide our government with necessary tools in dealing with foreign government activities within the United States.

The Department appreciates your interest in S.854, a bill that is important to our national security interests and the conduct of our international relations.

Sincerely yours,

Alvin Paul Drischler
Acting Assistant Secretary
for Congressional Relations

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United States Senate
COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, D.C. 20510

February 4, 1982

The Honorable Alexander M. Haig, Jr.
Secretary
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

I would appreciate knowing your construction of certain terms in a bill now before the Senate concerning diplomatic reciprocity.

Section 204 of S.854, the Foreign Missions Act, vests the Secretary of State with authority to determine terms and conditions for conferring or denying benefits on foreign missions in the United States.

The basis for determining those conditions, according to the bill, includes "to protect the interests of the United States" and "to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State."

This appears to be a rather broad construction of diplomatic reciprocity particularly in relation to this bill whose purpose is "to promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of United States missions abroad."

May I have your views on what those terms I have cited mean and whether, in your view, they are necessary to accomplish the objectives of the bill?

Thank you for your attention to this matter.

With best wishes,

Sincerely,

Charles McC. Mathias, Jr.
United States Senator

CM:mtm

97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT 97–
1st Session } { 102, Part 1

AUTHORIZING APPROPRIATIONS FOR FISCAL YEARS 1982 AND 1983 FOR THE DEPARTMENT OF STATE, THE INTERNATIONAL COMMUNICATION AGENCY, THE BOARD FOR INTERNATIONAL BROADCASTING, AND THE INTER-AMERICAN FOUNDATION

MAY 19, 1981.—Ordered to be printed

Mr. FASCELL, from the Committee on Foreign Affairs, submitted the following

REPORT

[To accompany H.R. 3518]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 3518) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

COMMITTEE ACTION

On March 11, 1981, the Assistant Secretary of State for Congressional Relations, Hon. Richard Fairbanks, sent to the Speaker of the House of Representatives Executive Communication 781 which contained a draft bill to authorize appropriations for fiscal years 1982 and 1983, for the Department of State, and for other purposes. This communication was referred to the Committee on Foreign Affairs, and on March 13 the chairman, Hon. Clement J. Zablocki, referred it to the Subcommittee on International Operations.

On March 25, 1981, the Acting Director of the International Communication Agency, Hon. John W. Shirley, sent to the Speaker of the House of Representatives Executive Communication 945 which contained a draft bill to authorize appropriations for fiscal years 1982 and 1983 for the International Communication Agency, and for other purposes. This Executive communication was also referred to the Committee on Foreign Affairs and on March 31, Chairman Zablocki referred it to the Subcommittee on International Operations.

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biilty in the State Department and, at the same time, precluding its exercise by the operating bureaus.

This new Office will also relieve the Office of Protocol of its often-conflicting responsibilities *vis-à-vis* foreign missions in the United States, and will enable it to discharge its proper responsibilities more efficiently and effectively. The committee expects, in particular, that certain responsibilities will be moved from the Office of Protocol to the Office of Foreign Missions. including such matters as: (1) The determination of eligibility and issuance of credentials of diplomatic, consular, and other foreign government officers and employees with respect to rights, privileges, and immunities; (2) advising and acting as liaison to State and local government authorities on diplomatic privileges and immunites and related matters; (3) providing certifications of the immunity status of individuals for use in court cases; (4) requesting waiver of immunity in appropriate cases; (5) assisting in the negotiations of consular conventions and other treaties and agreements involving rights, privileges, and immunities of foreign government missions and personnel; and (6) providing advice and assistance to diplomatic missions.

In certain areas, the Secretary may find it appropriate to permit sharing of responsibilities between the two Offices, but the committee expects the new Office to resolve the inherent conflict between protocol duties and those duties involving regulation of foreign mission activities. Appropriate liaison between the offices should assure that conflicts are minimized.

Section 203(b) identifies the major responsibilities that the Secretary may delegate to the Director, and authorizes the Secretary to assign other functions to the Director as the Secretary may determine necessary in furtherance of the policy of the foreign missions provision. The two specific responsibilities of the Director identified in this subsection are those of assisting Federal, State. and municipal agencies in ascertaining and according benefits, privileges, and immunities to foreign missions. and of providing or assisting in the provision of benefits to foreign missions. The manner of such assistance is dealt with in section 204 below.

Section 204—Provision of benefits

Section 204 contains the key provisions empowering the Secretary of State to implement the policy of the foreign missions provision by setting terms and conditions upon which benefits may be provided for any foreign mission. Additional specific authority to impose conditions on or to regulate the acquisition or use of real property is set forth in section 205 below. The committee does not intend either section to limit the authorities granted in the other.

Section 204(a) specifically provides authority for the Director to assist foreign missions, at their request, to obtain benefits. The Secretary of State may approve terms and conditions for such benefits.

The committee notes that this authority is intended both to enable the United States to exercise more effective control over the granting of privileges, immunities, and other benefits to foreign missions and to enhance the ability of foreign missions to conduct their representational duties in the United States.

Section 204(b) authorizes the Secretary to require a foreign mission to comply with such terms as the Secretary may establish in order to obtain or utilize any benefits or to take certain other actions. Alternatively, this subsection empowers the Secretary to require a foreign mission to obtain benefits from or through the Office of Foreign Missions. The Secretary is authorized to impose substantive and procedural constraints on the basis of reciprocity or otherwise, in accordance with the criteria set forth in paragraphs (1) through (4) of this subsection. These criteria include such matters as facilitating U.S. diplomatic relations, protecting the interests of the United States, assisting in the resolution of disputes affecting U.S. interests, or adjusting for costs and procedures imposed on missions of the United States abroad.

The committee notes that flexibility is desirable and necessary in the operation of this Office. Therefore, the committee has not mandated the concept of a quid pro quo for each individual case. Nevertheless, the committee stresses its intent that the new Office of Foreign Missions recognize and utilize the concept of reciprocity effectively.

Section 204(c) sets forth certain conditions which the Secretary may impose on foreign missions in order for them to obtain benefits. Section 204(c)(1) provides that a requirement may be imposed for a surcharge to be paid to the Director by a foreign mission for the receipt of any specified benefit, regardless from whom the benefit is obtained. This provision will enable the United States to adjust for the often arbitrary imposition of costs overseas, or to provide leverage in cases where exact reciprocity may not be available, or may be insufficient to induce appropriate treatment of U.S. interests abroad. The surcharge would be paid directly to the Office of Foreign Missions, over and above any other costs or conditions set by any contractor or other party with whom the foreign mission is involved in acquiring the benefit in question. Payment of the surcharge would be a condition precedent for the mission to be allowed to obtain or retain specified benefits from private or public sources. Thus, there would generally not be any direct effect on the terms or conditions set in private contracts or by persons providing benefits to such missions.

Section 204(c)(2) provides for a waiver of recourse by a foreign mission generally against any governmental authority, entity providing public services, or other person in connection with any action (including an omission) determined by the Secretary to be in furtherance of the purposes of the title. In the absence of such a provision, public agency officials, private party contractors, or persons acting for publicly regulated utilities, among others, could be exposed to suits challenging their authority to carry out such actions, or to suits for damages for complying with a requirement of the Secretary under the foreign missions title. Section 208(b), discussed below, provides further protection against suit in this regard.

Section 204(d) provides that the Secretary may designate the Director of the Office of Foreign Missions, or any other officer of the Department of State, as the agent of a foreign mission for the purpose of executing the required waiver. This authority is necessary to assure that the U.S. person acting in response to the Secretary's direction will not incur liability to a foreign mission.

THE CHIEF OF PROTOCOL
DEPARTMENT OF STATE
WASHINGTON, D.C. 20520

July 13, 1977

Mr. Charles Conrad
Executive Director
National Capital Planning Commission
1325 G Street, N.W.
Washington, D.C. 20576

Dear Mr. Conrad:

Secretary Vance has asked me to reply to Mr. Oberlander's letter of May 13 enclosing for review copies of the Commission's proposed Foreign Missions and International Agencies element and related modifications to other elements of the Comprehensive Plan for the National Capital, together with copies of the supporting documents, the Planning Report and the Description of Environmental Impact.

As I am sure you are well aware, the Department of State is vitally interested in the ability of Washington, as a world center of diplomatic activity, to respond promptly and adequately to the space needs of a community of foreign missions and international agencies which continues to grow. At the same time we recognize that those responsible for the overall planning for further development of the National Capital must endeavor to guide this growth in such a way as to meet the special needs of the Department's clientele while preserving the city's essential integrity and harmony to the maximum extent. At the outset, therefore, let me express our appreciation for the constructive and cooperative way in which the National Capital Planning Commission has utilized the specialized knowledge and experience of State Department representatives in this important undertaking.

The Department regards the proposed Foreign Missions and International Agencies element as a constructive document, in that, through it, for the first time in the history of the capital city areas where foreign embassies should locate their chanceries have been defined for guidance.

The Department approves the proposed plan in general. The Department, however, notes that it is of critical importance that the location of foreign missions be considered essentially as a Federal element in planning for the District, and further as a category clearly distinguishable from and requiring separate treatment from that accorded commercial office use generally. Foreign missions are required in keeping with international practice to locate in the District of Columbia, and the United States pursuant to the Vienna Convention on Diplomatic Relations is obligated to assist foreign governments in obtaining facilities suitable for diplomatic representation. The ability of the United States Government to meet that obligation necessarily impacts on the ability of our overseas missions in the many capitals around the world to obtain suitable treatment, and affects the conduct of our foreign relations.

The Department of State fully recognizes planning requirements for the District as a whole, and the need to integrate that planning with local needs in the differing communities of the District. It is, we believe, necessary in this connection to recall the continuing purpose for establishing the District of Columbia - first, to create a federal territory for the Government of the United States, and secondarily to provide for foreign government representation in the District together with other facilities necessary for the conduct of government activities. The method of assuring the availability of space suitable for diplomatic representation should, therefore, be accorded the substantial weight it historically requires in order to balance that requirement with other community needs ancillary to the main purposes of the establishment of this District as the seat of the Federal Government.

Thus, in order to meet the historic need to assure the ability of our Government to accommodate foreign governments in our capital, the Department fully supports the use of flexible criteria in the proposed additions and modifications of the comprehensive plan, and will support the adoption of implementing procedures and regulations designed both to assure flexibility and to preclude the imposition of restrictive conditions unreasonably impairing the ability of the United States to fulfill its obligations as a host government.

We assure you of the Department's continued collaboration in this process.

Sincerely,

Evan S. Dobelle

Evan S. Dobelle

DEPARTMENT OF STATE
Washington, D.C. 20520

November 7, 1978

Honorable Robert J. Drewes, Judge
Superior Court of California
San Francisco, California

Dear Judge Drewes:

Your letter of September 29 as to whether foreign governments are obligated to conform to local zoning ordinances in the location of consular premises has been referred to me for reply.

It is relevant to note that the Vienna Convention on Consular Relations of 1963, to which the United States is a signatory, is the most recent codification of international law governing the conduct of consular affairs. While the Convention does not specifically consider the matter of compliance with applicable zoning ordinances, Article 51 of the Convention, referring to consular officials and employees states that "without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State." It is the position of the Department of State that the question of whether consular premises conform to local zoning regulations is a matter to be determined in accordance with the laws and regulations of the municipal jurisdiction in which the property is located.

If we can be of further assistance, please let us know.

Sincerely,

Richard Gookin
Assistant Chief of Protocol

STATE DEPARTMENT PAPER

SUMMARY - S. 854, FOREIGN MISSIONS ACT

The Administration, with bipartisan backing, strongly supports passage as reported out of both Foreign Relations and Govermental Affairs Committees.

(1) Provides oversight and regulation of activities of foreign government missions in the US to promote foreign relations and national security interests.

(2) Establishes congressional policy of reciprocity in diplomatic relations; benefits should be granted by foreign governments to US missions abroad, if those governments are to receive benefits or obtain the right to operate in the US.

STATUS

SENATE: Reported out favorably by Foreign Relations (11/30/81), and by Governmental Affairs (3/30/82).

HOUSE: Foreign Missions Act passed by the House in October 1981, as part of the State Department FY 82-83 Authorization bill (H.R. 4814).

MAJOR PROVISIONS

Section 203

Establishes an Office of Foreign Missions within the Department of State to implement the provisions of this act.

Section 204

Authorizes the Secretary of State, through the Office of Foreign Missions, to set the terms and conditions under which benefits may be provided for any foreign mission to the United States. Such terms and conditions can be made to reflect national security concerns and the circumstances under which missions of the United States are required to operate abroad.

Section 205

Authorizes the Secretary of State to require a foreign mission to provide notice prior to acquiring, using, or disposing of any official facilities. Recognizes that the location and use of foreign mission facilities in the United

States, and the process by which those facilities are obtained, clearly affect the Federal interest in terms of national security and foreign relations and have a direct bearing on the security and adequacy of treatment of United States missions abroad.

OTHER PROVISIONS

Section 206

Concern raised by some members as to inclusion of federal participation in decisions concerning foreign mission locations or activities in the nation's capital.

The Foreign Relations and Governmental Affairs committees, as well as the Foreign Affairs and National Security and Intelligence agencies, have agreed that the location and size of foreign government activities in the nation's capital require a balancing of federal participation with local concerns, because of the strong impact on the federal interest.

The Administration has already agreed to a substantial compromise on Section 206 in the House. The bill as reported out by both Senate Foreign Relations and by Governmental Affairs contains that compromise.

Section 207

Concern expressed by minority of Governmental Affairs committee members of possible interpretation that could permit federal authority to generally preempt state and local land use and related regulations. The bill does not provide for such overriding, and a majority of Governmental Affairs members did not accept the minority's interpretation, A floor amendment will be offered by Sen. Durenberger or Sen. Percy to clarify Section 207 specifically assuring that state or local land use regulations are not preempted by federal authority under this bill. Substitute amendment expected to be offered by opponents clearly unacceptable.

Repeal of Prior Inconsistent Law

The bill also supercedes prior zoning laws of the District of Columbia concerning foreign government chanceries which are inconsistent with the provisions of this bill.

ADMINISTRATION POSITION

Strongly supports S.854 as reported by Foreign Relations and Governmental Affairs committees subject to technical and perfecting amendments to be offered by Sen. Percy and Sen. Durenberger.

Diplomatic Reciprocity

The Department supports the legislative proposal, S. 854, which would authorize the Secretary of State to regulate activities of foreign missions in the United States, generally on the basis of an assessment of treatment received by United States missions abroad, as well as a review of national security issues. This will assist our country to redress the current imbalance between treatment of U.S. missions abroad and foreign government activities here. In this context, it is important to recognize that foreign government missions and their personnel are admitted into and conduct their activities in the United States as a matter of privilege and not of right, under applicable international agreements and diplomatic practice. The authority to regulate contained in this proposed legislation is in our opinion well within the federal jurisdiction.

In an era of declining federal budgetary resources, arbitrary or unreasonable increases in costs of operating USG missions abroad, which are imposed by, or permitted by foreign governments, increasingly limit the ability of our missions abroad to effectively perform their functions. In such cases, the ability to place restraints on foreign missions here in the United States may enable the USG to more effectively deal with such problems.

In addition, the substantial federal interest in providing effective security and locations for foreign mission activities in the United States, as well as the need to obtain comparable treatment abroad, would be enhanced under such legislation. An important link in this process is to strengthen the federal role in determining acceptable locations for foreign missions within our country, and most importantly in the Nation's capital city. We believe this legislation carefully balances the need to accommodate the federal interest with a process that weighs the impact on municipal concerns as well.

Furthermore, interests of other federal agencies involved in ensuring that foreign mission activities in the United States remain within appropriate limits should also be enhanced by this proposed legislation.

STATE DEPARTMENT PAPER

TO: Ed Sanders
David Keaney

SUBJECT: S. 854 - ADDITIONAL INFORMATION ON SECTION 206

The USG has important treaty obligations concerning adequate and secure chancery locations for official missions to the US, which affects USG missions abroad and involves security and intelligence concerns in the United States. The foreign affairs agencies and NSC have concluded that the significant federal interest involved cannot be met in the nation's capital, because of adverse municipal policy and regulations, which do not balance federal interests with local concerns, and have since 1978 resulted in increasing conflict with the federal agencies involved.

The status quo must be changed in order to balance the federal interest with the local interest. Congress already has had to take action in this area in 1979, vetoing a proposed city law which would have severely curtailed the USG ability to meet international obligations.

The need to readjust the manner in which these decisions are made in the nation's capital has now become linked with a strong Administration concern to enact a stringent reciprocity law affecting the conduct of our diplomatic relations, which will enhance national security interests of the United States both here and abroad.

It is important to obtain a balance between federal and local interests in the nation's capital, which as the federal capital has obligations unlike other metropolitan centers. While municipal impacts are always a significant part of all actions involving the District, the primary purpose of the capital city is to provide for the effective functioning of the federal government. This is especially the case where the impact of the proposed balancing on land-use in the District is quite small, affecting a few lower-density areas which are the only areas now available which allow accommodation of the security and representational requirements of chancery use.

Chancery facilities are usual lower-density land uses, which for security and representational purposes are normally required to be located in separate and individually controlled structures. Larger commercial office structures are in most cases unacceptable for security and related reasons. (The requirement to secure communications and document systems, as well as USG federal protective concerns limit the type of structures which are acceptable). Federal security requirements have also in the last years increased the need to concentrate these uses in areas in which they are already in place. (There are only a few areas in the District, which is already a developed city, meeting these criteria, i.e., lower-density mixed-use areas, in which chancery uses are already in place, such as the Massachusetts Ave. "Embassy Row" area).

PROBLEM:

Muncipal authorities have taken a very negative position on this important federal concern since 1978:

In 1977, the National Capital Planning Commission (NCPC) adopted the "Foreign Missions Element" to the Comprehensive Plan for the National Capital, which was approved by representatives of the Mayor, the City Council, and House and Senate District Committees, who are all represented on NCPC. The Plan (see map in Tab A) provided for areas in which diplomatic missions could be located as a matter-of right, which is one key to a resolution of this problem. Municipal authorities, as required by law, then proceeded to adopt zoning regulations to implement the NCPC plan. Three events then ocurred which have resulted in a continued conflict with the federal interest:

(1) Notwithstanding the NCPC plan and the important federal interest and international obligations involved, the District Zoning Commission under a new city administration in 1978 adopted zoning regulations which, while providing for diplomatic zones (so-called "D" zones, see map in Tab B) nevertheless abolished the matter-of-right areas (except for areas which are generally unacceptable to the federal side, because of security reasons), and imposed instead a type of "special exception" procedure, in which significant burdens are placed in front of any chancery user, which guarantees conflict over chancery uses. (In land-use practice, special exception type procedures are well used devices to keep certain uses out). In addition, zones permitting lower-density commercial uses, which are also important areas for chancery locations, were adopted which allow a multitude of uses (See Tab C for excerpts) including all office uses, prohibting only one such use - chanceries. The issuance of these restrictive and discriminatory regulations, which were known to be anti-chancery, by a new city administration sent an obvious negative message to city zoning administrators, and has remained a major problem.

(2) Individual cases, where necessary, are decided by the DC Board of Zoning Adjustment under the zoning regulations, or returned to the Zoning Commission if application is made to

amend the regulations. The federal side did not experience a major problem prior to 1978. Notwithstanding the existance of restrictive laws prior to 1978, city administrators were able to accommodate the federal interest. After issuance of the anti-chancery zoning regulations of 1978, however, three important test-cases involving major countries directly on Embassy Row were closely watched by the federal agencies and the diplomatic community. Two were denied (Bangledesh and Iran) on techical and narrow grounds and the third, that of Saudi Arabia, finally approved, but abandoned in the face of expected continued city opposition.

All three involved significant USG concerns, both in the United States and abroad. Other foreign governments necessarily were then advised, when seeking new or expanded facilities, that the federal government could not even assure them of neutral treatment, in the face of adverse city actions and restrictive regulations, let alone positive treatment in accordance with treaty obligations. Since that time, the apparent inability of the USG to comply with treaty obligations has been a growing problem, and some governments have refrained from proceeding with needed chancery relocation or expansion. Several cases have proceeded, which have not been of significance either as to location or impact on USG interests, and while approved by the municiple zoning authorities, have in no way relieved the federal agencies involved of the need to obtain a balanced system. This must at a minimum include regulations and a process which ensures recognition of federal as well as local impacts, including federal representation as well as municipal representation.

(3) The City Council then proceeded in 1979, notwithstanding serious concern expressed by State as to the negative impact on the federal interest, to adopt a city law which was approved by the Mayor, which would have basically closed out the federal interest. This would have resulted by permitting locations for chanceries only in areas which are unacceptable for security reasons, such as higher density residential or commerical zoned areas. This lead Congress in 1979 to adopt its first resolution of disapprovalof a proposed city law under the Self-Government Act.

The combination of these three events have clearly evidenced a negative municipal position which will not be acceptable to the federal agencies involved until this process is balanced.

Compromise Section 206

Section 206 of S. 854, either in its original form, or as enacted in H.R. 4814 as the Fascell-Dellums House compromise, provides for balance of federal as well as municipal interests.

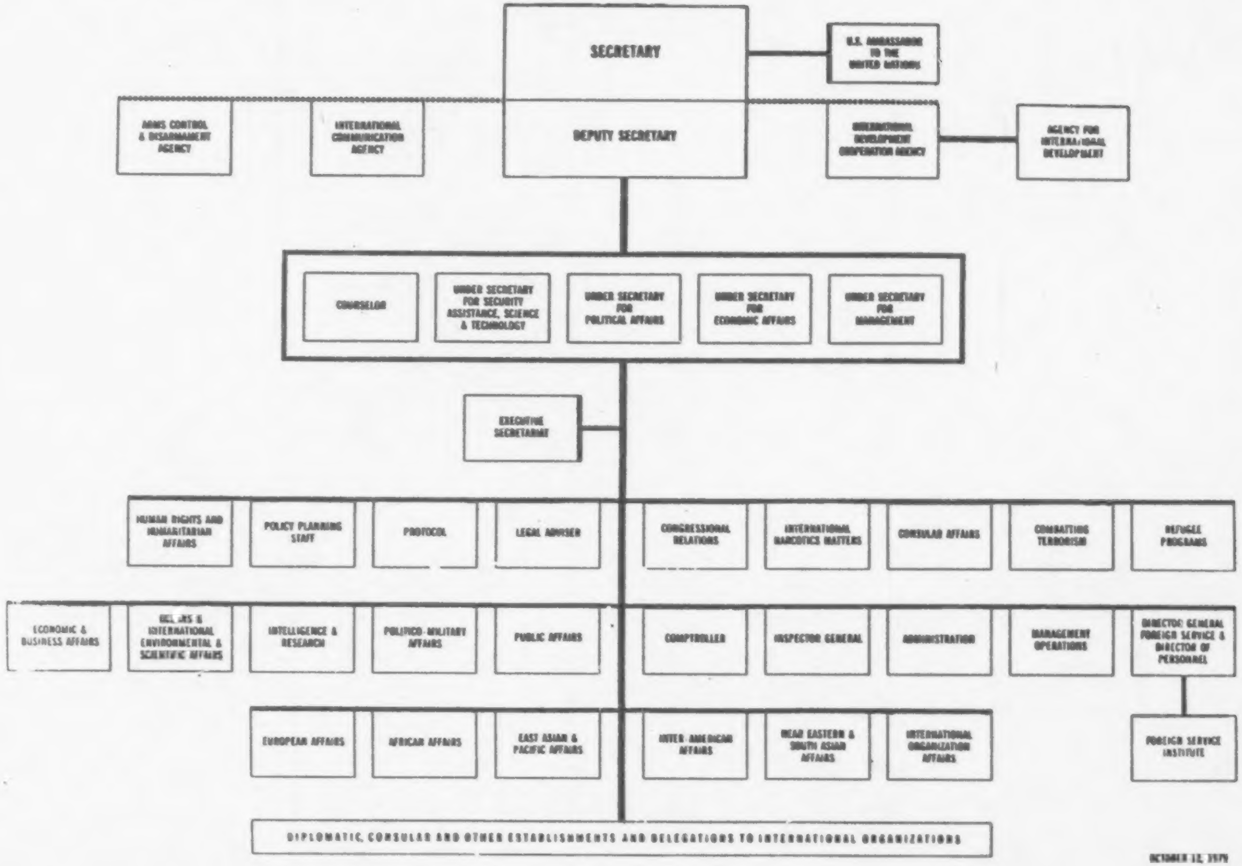
We believe this is a reasonable solution to a problem which will not remain status quo. While District authorites on the one hand are disinclined to accommodate this federal interest, notwithstanding the very limited impact on the District, there remain pressures on State to seek to remove this issue altogether from District jurisdiction. The compromise Section 206 (or variations of it) provide a middle road which incorporates the needs of each side. It may well be in the best interest of both to retain that compromise, rather than end up with much stronger bills on each side for up or down votes on the floor.

There is already precedent for mixed municipal-federal bodies which resolve land use issues in which significant concerns of each side are involved: Principal examples - the National Capital Planning Commission (NCPC) and the Pennsylvania Avenue Development Corporation (PADC). It should be noted that the location of federal buildings is entirely within the jurisdiction of NCPC, which is a mixed municipal-federal body. The compromise of Section 206 retains the precedent of a mixed body, but places it within the District government jurisdiction rather then as a federal agency.

NOTE: Section 206 would require determinations on chancery locations to be based on a survey of actual existing land uses. In some areas of the city, actual land use differs from the underlying primary zoning labels. For example, areas such as the Massachusetts Avenue "Embassy Row" corridor carry an underlying zoning for lower density residential use, but also permit certain institutional uses, and in fact for many years have included more than 50% institutional or other nonresidential uses, including churches, non-profit associations, chanceries, etc. Characterizing areas such as this as primarily residential contradicts actual land uses and does not contribute to a realistic dialogue. The requirement that determinations be based on actual land use patterns will facilitate a resolution of current problems, and aid in appropriate planning for chancery areas. Importantly, it should be noted that the House Compromise Section 206 does not permit chanceries in any area that is actually only residential in use.

With regard to other long-term solutions, the Department has entered into discussions with representatives of the District to determine the feasibility of includig chancery uses in planned future urban development areas proximate to the downtown district. In the event that such uses are compatible with urban development planning, it will be necessary to overcome significant objections which have been raised earlier to this idea that placing low-density chancery uses on prime city development space will result in substantial underutilization of the land, which would produce jobs and income if used for hotels or high density commercial and apartment development. The feasibility of such development, in any event, will not effect chancery locations for a substantial period of time (10-15 years). This possibility in any event does not obviate the need to obtain a process which balances federal and municipal interests, and the need for a Section 206 solution remains.

DEPARTMENT OF STATE


SECRETARY
U.S. AMBASSADOR TO THE UNITED NATIONS
ARMS CONTROL & DISARMAMENT AGENCY
INTERNATIONAL COMMUNICATION AGENCY
DEPUTY SECRETARY
INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
AGENCY FOR INTERNATIONAL DEVELOPMENT
COUNSELOR
UNDER SECRETARY FOR SECURITY ASSISTANCE, SCIENCE & TECHNOLOGY
UNDER SECRETARY FOR POLITICAL AFFAIRS
UNDER SECRETARY FOR ECONOMIC AFFAIRS
UNDER SECRETARY FOR MANAGEMENT
EXECUTIVE SECRETARIAT
HUMAN RIGHTS AND HUMANITARIAN AFFAIRS
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INTERNATIONAL ORGANIZATION AFFAIRS
FOREIGN SERVICE INSTITUTE
DIPLOMATIC, CONSULAR AND OTHER ESTABLISHMENTS AND DELEGATIONS TO INTERNATIONAL ORGANIZATIONS

OCTOBER 12, 1979

U.S. SECRET SERVICE CORRESPONDENCE

DEPARTMENT OF THE TREASURY
UNITED STATES SECRET SERVICE
WASHINGTON, D.C. 20223
DIRECTOR

January 29, 1982

Dear Mr. Chairman:

On January 25, Chief Pryor of the Secret Service Uniformed Division testified before the Subcommittee concerning S.854, the Foreign Missions Act of 1982. Some questions raised since that hearing have indicated a possible misunderstanding among Subcommittee members regarding the Secret Service's position on this bill; and, consequently, I want to clarify our views for you.

The Secret Service supports the enactment of S.854 which, among other provisions, would establish an Office of Foreign Missions within the State Department to consider questions about the locations of foreign missions. We have been assured that the Secret Service would be one of the agencies contributing to the deliberations and decisions of that office; and, as Chief Pryor testified, that would permit us to contribute our views on the complex security-related considerations of foreign mission location and control the deployment of Secret Service Uniform personnel.

In addition, the bill states explicitly that it does not preclude or limit the Secret Service's authority to provide protection for foreign missions at a level determined by the Service. This provision, which was requested by the Secret Service, has eliminated the jurisdictional concerns we had during the deliberations on the House version of this bill.

As it now stands, S.854 should contribute to the United States Government's ability to provide a secure environment for foreign missions; and the Secret Service supports it.

Sincerely,

John R. Simpson

John R. Simpson
Director

The Honorable
Charles McC. Mathias, Jr.
Chairman
Subcommittee on Governmental
Efficiency and the District of Columbia
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON
GOVERNMENTAL EFFICIENCY AND THE DISTRICT
OF COLUMBIA
WASHINGTON, D.C. 20510

February 4, 1982

Mr. John R. Simpson
Director
U.S. Secret Service
1800 G Street, N.W.
Washington, D.C. 20223

Dear Mr. Simpson:

We are in receipt of your letter of January 29, 1982 concerning the Uniformed Division's testimony before this Subcommittee on S. 854, The Foreign Missions Act.

The Subcommittee is aware of the Administration's views on this bill. That was not the purpose for which we sought testimony from the Secret Service.

Rather, we were concerned, as our questions clearly indicated, about the past, present, and future participation of the Secret Service in the development of policies and regulations in the District of Columbia affecting the location of foreign mission chanceries.

The Secret Service plays a vital role in security and intelligence operations affecting such chanceries. We want to assure good communication, cooperation, and coordination between the Service and the Department of State. Our concerns and questions of the Service's witness were addressed to that end.

This Subcommittee is unaware of "questions raised since that hearing" that would lead to members' "possible misunderstanding" concerning the Service's position on S. 854. Perhaps you can enlighten us as to who raised such questions with you and their nature so that we might put any confusion by others to rest.

We look forward to hearing from you.

With best wishes,

Sincerely,

Thomas F. Eagleton
Thomas F. Eagleton
Ranking Minority Member

Charles McC. Mathias, Jr.
Chairman

Warren Rudman
Member

Edward C. Hromanik November 23, 1976

/S/

Jerry H. Gilreath

Foreign Missions and International Agencies - Meeting with Executive Protective Service representatives, November 18, 1976

A meeting was held with representatives of the Executive Protective Service at 1310 L Street, N.W., on November 18, 1976, to discuss the role of security in Foreign-Mission development in the NCR. Representing the Executive Protective Service were Earl Drescher, Chief; John P. Brophy, Deputy Chief for Operations; and Harold A. Doughtery, Inspector. In attendance from NCPC were Bozarth, Hromanik, and Gilreath.

Notes: EPS presently has authorization for 1,200 employees, but the Agency presently does not have that many employees aboard.

EPS has protective responsibility for all Foreign Missions in the NCR (Metropolitan Washington) and anywhere else within U.S. territories that the President so designates. The EPS has some responsibility for selected Foreign Missions in New York.

There are seven EPS zones:

1. Seven cruiser zones in D.C. and one in Maryland - 24 hours per day; seven days a week.
2. Foot patrols are assigned to high-concentration areas (Embassy Row, etc.). Each patrolman is assigned between 10 to 12 Foreign Missions.
3. Motor scooter patrols are assigned to lower-concentration areas.
4. Special patrols are sometimes assigned to a particular facility on a special occasion, e.g., the annual meeting of OAS Ambassadors in Washington.
5. Fixed-post patrols - A patrolman is assigned a single chancery or embassy. This special arrangement is often the result of a political decision. For example, the Russians requested and received fixed-post patrols for their chancery facilities.

There is some overlap between EPS and the Metropolitan Police in some Foreign-Mission areas.

EPS has the same powers as the local police in D.C. (D.C. Code and Federal statute provide authority). In Maryland, only Federal statutes apply. Maryland police must enforce local statutes.

EPS officers may take appropriate action whenever a felony or serious misdemeanor is committed in their presence in D.C.

EPS does not ordinarily enforce traffic regulations in D.C. - only those offenses listed in the D.C. Code: "drunken driving" and reckless driving.

EPS officers enter Foreign-Mission facilities on invitation of the Mission.

EPS not regularly informed of changes in locations or relocations of Foreign Missions by Department of State.

Meridian Hill is a high-crime area, requiring "doubled-up" security coverage of Foreign Missions.

EPS overall preference is for Missions to concentrate and would tend to define adequate security as being in areas of constant patrol.

cc: Bozarth
Hromanik
Gilreath
Central File
Reading File
Chron File
Branch File

UNITED STATES SECRET SERVICE
EXECUTIVE PROTECTIVE SERVICE
WASHINGTON, D.C. 20226

OFFICE OF THE CHIEF

29 AM 10 47

NCPC

November 24, 1976

Mr. Donald F. Bozarth, Director
Federal Planning Division
National Capital Planning Commission
1325 "G" Street, N.W.
Washington, D.C. 20005

Dear Mr. Bozarth:

During our conference of November 18, 1976, you indicated that the National Capital Planning Commission anticipates and/or expects relocational changes and additional locational requirements for Foreign Missions located in the National Capital Region as a result of: (1) expansion of existing facilities, (2) relocations, (3) consolidation of offices, (4) separation of chancery from embassy functions, and (5) establishment of new Missions.

In view of these anticipated changes over the next twenty years, as well as the current trend of embassies relocating from the District of Columbia into suburban areas, you requested the views of the Executive Protective Service with regard to the geographic areas that might be selected for potential use by Foreign Missions and how the selection of these various areas might alter or limit the protective services provided by the Executive Protective Service.

The Executive Protective Service provides physical security to the various Foreign Mission locations within the Metropolitan D.C. area under an "umbrella" concept. That is, its protective responsibilities are performed through a network of fixed posts and foot and vehicular patrols. The current concentrations of Foreign Missions in the Metropolitan D.C. area lends itself to this effective and efficient maximum utilization of available manpower which makes the providing of physical security both easier and more economical than if Foreign Missions were to be located in differing locales throughout the District of Columbia and the surrounding jurisdictions. Obviously, it would place greater demands on the EPS to provide acceptable protection to widely scattered Foreign Missions locations rather than to those generally concentrated in the Northwest area of D.C. and in suburban Montgomery County, Maryland.

Should serious consideration be given to establishing Foreign Missions facilities in areas not within the reasonable proximity to existent areas provided protective coverage by EPS, then it is our hope that recommendations be made that several Foreign Missions desiring to relocate be informed of the feasibility of locating in the same general proximity so that alignment can be made in patrol areas to assure maximum coverage under the concepts currently being utilized. This will enable EPS to continue to be a highly visible deterrent security force.

Sincerely,

Earl L. Drescher

Earl L. Drescher
Chief
Executive Protective Service

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

RECEIVED

JUN 10 1977

1977 JUN 15 AM 10 41

NCPC

Dear Mr. Oberlander:

Thank you for your letter of May 13 to Secretary Blumenthal concerning the proposed element and related modifications for the Foreign Missions and Internal Agencies portion of the Comprehensive Plan for the National Capital. My staff has reviewed the information materials forwarded with your letter and discussed this matter with officials of the Executive Protective Service who had conducted their own review. On the basis of these reviews, this Department has no comments or recommendations on the proposed elements.

We appreciate the opportunity you afforded us to review these materials.

Sincerely,

William J. Beckham, Jr.
Assistant Secretary (Administration)

Mr. George H. F. Oberlander
Acting Executive Director
National Capital Planning Commission
1325 G Street, N.W.
Washington, D.C. 20576

RELEVANT STATUTES

DISTRICT OF COLUMBIA ZONING ACT (Public Law 75-684)

[CHAPTER 534]

AN ACT

June 20, 1938
[H. R. 9844]
[Public, No. 684]

Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes.

District of Columbia, zoning regulation.

Zoning Commission, powers and duties.
41 Stat. 500.

Regulation of location, height, etc., of structures.
Yards, courts, and other open spaces.
Uses of buildings and lands.

Division into districts or zones.

Uniformity of regulations within each district.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the National Capital, the Zoning Commission created by the Act of March 1, 1920 (41 Stat. 500), is hereby empowered, in accordance with the conditions and procedures specified in this Act, to regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts, and other open spaces, the density of population, and the uses of buildings, structures, and land for trade, industry, residence, recreation, public activities, or other purposes; and for the purpose of such regulation said commission may divide the District of Columbia into districts or zones of such number, shape, and area as said Zoning Commission may determine, and within such districts may regulate the erection, construction, reconstruction, alteration, conversion, maintenance, and uses of buildings and structures and the uses of land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

Purposes of regulations.

SEC. 2. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

Existing regulations continued effective until amended, etc.
41 Stat. 500.

Amendments authorized.

Public hearings before becoming effective.

Notice of time and place; publication.

SEC. 3. The regulations heretofore adopted by the Zoning Commission under the authority of the above-mentioned Act of March 1, 1920 (41 Stat. 500), and in force at the date of the taking effect of this Act, including the maps which at said date accompany and are a part of such regulations, shall be deemed to have been made and adopted and in force under this present Act and shall be and continue in force and effect until and as they may be amended by the Zoning Commission as authorized by this Act. The Zoning Commission may from time to time amend the regulations or any of them or the maps or any of them. Before putting into effect any amendment or amendments of said regulations, or of said map or maps, the Zoning Commission shall hold a public hearing thereon. At least thirty days' notice of the time and place of such hearings shall be published at least once in a daily newspaper or newspapers of general circulation in the District of Columbia. Such published notice shall include a general summary of the proposed amendment or amendments of the regulation or regulations and the boundaries of the territory or territories included in the amendment or amendments of the map or maps, and the time and place of the hearing. The Zoning Commission shall give such additional notice of such hearing as it shall deem feasible and practicable. At such hearing it shall afford any person present a reasonable opportunity to be heard. Such public hearing may be adjourned from time to time and if the time and place of the adjourned meeting be publicly announced when the adjournment is had, no further notice of such adjourned meeting need be published.

Vote required for amendment.

SEC. 4. Any amendment of the regulations or any of them or of the maps or any of them shall require the favorable vote of not less than a full majority of the members of the Commission.

Zoning Advisory Council; creation, membership.

Submission of proposals to, before adoption.

Proviso.
Failure of Council to act within 30 days.

SEC. 5. A Zoning Advisory Council is hereby created to be composed of a representative designated by the National Capital Park and Planning Commission, a representative designated by the Zoning Commission of the District of Columbia, and a representative designated by the Commissioners of the District of Columbia, all of whom shall be persons experienced in zoning practice and shall serve without additional compensation. No amendment of any zoning regulation or map shall be adopted by the Zoning Commission unless and until such amendment be first submitted to said Zoning Advisory Council and the opinion or report of such Council thereon shall have been received by the Commission: *Provided, however*, That if said Council shall fail to transmit its opinion and advice within thirty days from the date of submission to it, then in such event the Zoning Commission shall have the right to proceed to act upon the proposed amendment without further waiting for the receipt of the opinion and advice of said Council.

Maximum height of buildings.

36 Stat. 452.

SEC. 6. The permissible height of buildings in any district shall not exceed the maximum height of buildings now authorized upon any street in any part of the District of Columbia by the Act of Congress approved June 1, 1910, and amendments thereto, regulating the height of buildings in the District of Columbia.

Use of existing buildings.

Restriction.

Extension and substitution of nonconforming uses.

SEC. 7. The lawful use of a building or premises as existing and lawful at the time of the original adoption of any regulation heretofore adopted under the authority of the aforesaid Act of March 1, 1920, or, in the case of any regulation hereafter adopted under this Act, at the time of such adoption, may be continued although such use does not conform with the provisions of such regulation, provided no structural alteration, except such as may be required by law or regulation, or no enlargement is made or no new building is erected. The Zoning Commission may in its discretion provide, upon such terms and conditions as may be set forth in the regulations, for the extension of any such nonconforming use throughout the building and for the substitution of nonconforming uses.

Board of Zoning Adjustment: creation, composition, etc.

SEC. 8. A board of zoning adjustment is hereby created which shall be composed of five members appointed by the Commissioners of the District of Columbia, namely, one member of the National Capital Park and Planning Commission or a member of the staff thereof to be designated in either case by such Commission; one member of the Zoning Commission or a member of the staff thereof to be designated in either case by such Commission; and three other members, each of whom shall have been a resident of the District of Columbia for at least three years immediately preceding his appointment and at least one of whom shall own his own home.

Changes and filling vacancies.

Terms of members.

Vacancies.

The representative of the National Capital Park and Planning Commission may be changed from time to time by such Commission in its discretion and in case of a vacancy in the position by death, resignation, or other disability, a new representative shall be designated by the said Commission and appointed by the Commissioners of the District of Columbia to fill said vacancy. The representative of the Zoning Commission may be changed from time to time by such Commission in its discretion and in case of a vacancy in the position by death, resignation, or other disability, a new representative shall be designated by the said Commission and appointed by the Commissioners of the District of Columbia to fill said vacancy. The terms of the three members designated by the Commissioners of the District of Columbia shall be three years each, excepting that, in the case of the initial appointments, one shall be for a term of one year and one for a term of two years. In case of any vacancy in the position of any of the three members designated by the Commissioners of the District of Columbia, the same shall be filled for the remainder of the term.

Organization and procedure.

Chairman and other officers.

Meetings, records, etc.

The Zoning Commission may provide and specify in its zoning regulations general rules to govern the organization and procedure of the Board of Adjustment not inconsistent with the provisions of this Act, and the Board of Adjustment may adopt supplemental rules of procedure which shall be subject to the approval of the Zoning Commission after public hearing thereon as provided in section 3. The Board of Adjustment shall choose its chairman and its other officers. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Special exceptions to provisions of regulations.

Interpretation of maps; settlement of disputed questions, etc.

The regulations adopted by the Zoning Commission may provide that the Board of Adjustment may, in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the regulations, make special exceptions to the provisions of the zoning regulations in harmony with their general purpose and intent. The Commission may also authorize the Board of Adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of the regulations.

Limitation.

The Board of Adjustment shall not have the power to amend any regulation or map.

Appeals.

Appeals to the Board of Adjustment may be taken by any person aggrieved, or organization authorized to represent such person, or by any officer or department of the government of the District of Columbia or the Federal Government affected, by any decision of the inspector of buildings granting or refusing a building permit or granting or withholding a certificate of occupancy, or any other administrative decision based in whole or part upon any zoning regulation or map adopted under this Act. The Commissioners of the District of Columbia may require and fix the fee to be charged for an appeal, which fee shall be paid, as directed by said Commissioners, with the filing of the appeal: *Provided*, That no citizens' association, or association created for civic purposes and not for profit shall be required to pay said fee. There shall be a public hearing on appeal.

Fees.

Proviso.
Exemption, citizens' associations, etc.

Public hearings.

Powers of Board upon appeals.

Upon appeals the Board of Adjustment shall have the following powers:

Alleged errors.

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by the inspector of buildings or the Commissioners of the District of Columbia or any other administrative officer or body in the carrying out or enforcement of any regulation adopted pursuant to this Act.

Requests for special exceptions, map interpretation, etc.

(2) To hear and decide, in accordance with the provisions of the regulations adopted by the Zoning Commission, requests for special exceptions or map interpretations or for decisions upon other special questions upon which such Board is required or authorized by the regulations to pass.

Variations from application of regulations.

(3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.

Authority conferred.

(4) In exercising the above-mentioned powers the Board of Adjustment may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, determination, or refusal appealed from or may make such order as may be necessary to carry out its decision or authorization, and to that end shall have all the powers of the officer or body from whom the appeal is taken.

Vote necessary for decision, etc.

The concurring vote of not less than a full majority of the members of the Board shall be necessary for any decision or order.

Appeals from Board to Zoning Commission.

Nothing herein contained shall prohibit the Zoning Commission from providing by regulation for appeals to it from any action of the Board of Zoning Adjustment.

Maps and regulations established by Zoning Commission, filing.

Publication.

SEC. 9. A copy of any map established by said Zoning Commission and of its zoning regulations shall be filed in the office of the Engineer Commissioner of the District of Columbia. A copy of any regulation or any amendment adopted after the passage of this Act shall be published once in one or more daily newspapers printed in the District of Columbia for the information of all concerned.

Building permits.

Construction to conform to regulations.

SEC. 10. It shall be unlawful to erect, construct, reconstruct, convert, or alter any building or structure or part thereof within the District of Columbia without obtaining a building permit from the inspector of buildings, and said inspector shall not issue any permit for the erection, construction, reconstruction, conversion, or alteration of any building or structure, or any part thereof, unless the plans of and for the proposed erection, construction, reconstruction, conversion, or

Certificates of occupancy, etc.

Construction, etc., in violation of Act or regulations.

Penalty.

Injunction, etc., proceedings.

alteration fully conform to the provisions of this Act and of the regulations adopted under this Act. In the event that said regulations provide for the issuance of certificates of occupancy or other form of permit to use, it shall be unlawful to use any building, structure, or land until such certificate or permit be first obtained. It shall be unlawful to erect, construct, reconstruct, alter, convert, or maintain or to use any building, structure, or part thereof or any land within the District of Columbia in violation of the provisions of this Act or of any of the provisions of the regulations adopted under this Act. The owner or person in charge of or maintaining any such building or land or any other person who erects, constructs, reconstructs, alters, converts, maintains, or uses any building or structure or part thereof or land in violation of this Act or of any regulation adopted under this Act, shall upon conviction for such violation on information filed in the police court of the District of Columbia by the corporation counsel or any of his assistants in the name of said District and which court is hereby authorized to hear and determine such cases, be punished by a fine of not more than $100 per day for each and every day such violation shall continue. The corporation counsel of the District of Columbia or any neighboring property owner or occupant who would be specially damaged by any such violation may, in addition to all other remedies provided by law, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation or to prevent the occupancy of such building, structure, or land.

Enforcement of regulations.

SEC. 11. The Commissioners of the District of Columbia shall enforce the regulations adopted under the authority hereof. Nothing herein contained shall be construed to limit the authority of the Commissioners of the District of Columbia to make municipal regulations which are not inconsistent with the provisions of this Act and the regulations adopted hereunder.

Effect of regulations on future construction, etc.

Conflicts with other statutes or regulations.

SEC. 12. Wherever the regulations made under the authority of this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute or municipal regulations, the regulations made under authority of this Act shall govern. Wherever the provisions of any other statute or municipal regulations require a greater width or size of yards, courts, or other open spaces or require a lower height of buildings or smaller number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this Act, the provisions of such other statute or municipal regulation shall govern.

Terms defined.

SEC. 13. The word "amend", "amendment", "amendments", or "amended", when used in this Act in relation to the zoning regulations, shall be deemed to include any modification of the text or phraseology of the regulations or of any provision of the regulations or any regulation or any repeal or elimination of any regulation or regulations or part thereof or any addition to the regulations or any new regulation or any change of or in the wording or content of the regulations. The word "amend", "amendment", "amendments", or "amended", when used in this Act in relation to the zoning maps or any map, shall be deemed to include any change in the number, shape, boundary, or area of any district or districts, any repeal or abolition of any such map or any part thereof, any addition to any such map, any new map or maps, or any other change in the maps or any map. The words "administrative decision", "administrative officer", "administrative officer or body", when used in section 8 of this Act shall not be deemed to include the Zoning Commission.

Appropriations authorized.
Post, p. 1120.

Employment of personnel.

5 U. S. C. §§ 661-674; Supp. III, §§ 673, 673c.
Compensation of members of Board of Zoning Adjustment.

Provisos.
Maximum.

No compensation, if receiving Government, etc., pay.

SEC. 14. Appropriations are hereby authorized to carry out the provisions of this Act for the fiscal year ending June 30, 1938, and thereafter the Commissioners of the District of Columbia are authorized and directed to include in their annual estimates such amounts as may be required for salaries and expenses incident to such purposes. The Commissioners are authorized to employ such personal services as may be necessary to carry out the provisions of this Act, and the salaries of such employees, other than members of the Board of Zoning Adjustment, are to be fixed in accordance with the provisions of the Classification Act of 1923, as amended. The Commissioners shall fix the compensation of the members of the Board of Zoning Adjustment, without reference to the provisions of the Classification Act: *Provided, however*, That the compensation of any member shall not exceed $1,000 per annum: *And provided further*, That no compensation for service as a member of said Board shall be provided for any member who holds a salaried public office or position in the District of Columbia or the Federal Governments.

Act repealed; exception.

41 Stat. 500.

Conflicting laws, etc., repealed.

SEC. 15. The Act entitled "An Act to regulate the height, area, and use of buildings in the District of Columbia and to create a Zoning Commission, and for other purposes", being the Act of March 1, 1920 (41 Stat. 500), excepting the provisions thereof creating the Zoning Commission, providing for its membership and service without additional compensation, is hereby repealed. All laws or parts of other laws in conflict with the provisions of this Act are hereby repealed.

Federal public buildings excepted.
Proviso.
Approval by National Capital Park and Planning Commission.

SEC. 16. The provisions of this Act shall not apply to Federal public buildings: *Provided, however*, That, in order to insure the orderly development of the National Capital, the location, height, bulk, number of stories, and size of Federal public buildings in the District of Columbia and the provision for open space in and around the same will be subject to the approval of the National Capital Park and Planning Commission.

Separability provision.

SEC. 17. If any provision contained in this Act be declared invalid, such invalidity shall not be deemed to affect or impair the validity of the remainder or of any other part of this Act.

Approved, June 20, 1938.

DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT, PUBLIC LAW 93-198

* * * * * * *

NATIONAL CAPITAL PLANNING COMMISSION AND MUNICIPAL PLANNING

SEC. 203. (a) Subsections (a) and (b) of section 2 of the Act entitled "An Act providing for a comprehensive development of the park and playground system of the National Capital", approved June 6, 1924 (D.C. Code, sec. 1-1002), are amended to read as follows:

"(a)(1) The National Capital Planning Commission (hereinafter referred to as the 'Commission') is created as the central Federal planning agency for the Federal Government in the National Capital, and to preserve the important historical and natural features thereof, except with respect to the United States Capitol buildings and grounds as defined in sections 1 and 16 of the Act of July 31, 1946 (40 U.S.C. 193a, 193m), and to any extension thereof or additions thereto, or to buildings and grounds under the care of the Architect of the Capitol.

"(2) The Commissioner of the District of Columbia (hereinafter referred to as the 'Commissioner') shall be the central planning agency for the government of the District of Columbia (hereinafter referred to as the 'District') in the National Capital. The Commissioner shall be responsible for coordinating the planning activities of the District government and for preparing and implementing the District elements of the comprehensive plan for the National Capital, which may include land use elements, urban renewal and redevelopment elements, a multi-year program of public works for the District, and physical, social, economic, transportation, and population elements. The Commissioner's planning responsibility shall not extend to Federal or international projects and developments in the District, as determined by the Commission, or to the United States Capitol buildings and grounds as defined in sections 1 and 16 of the Act of July 31, 1946 (40 U.S.C. 193a, 193m), or to any extension thereof or additions thereto, or to buildings and grounds under the care of the Architect of the Capitol. In carrying out his responsibility under this section, the Commissioner shall establish procedures for citizen participation in the planning process, and for appropriate meaningful consultation with any State or local government or planning agency in the National Capital region affected by any aspect of a comprehensive plan (including amendments thereto) affecting or relating to the District.

"(3) The Commissioner shall submit each District element of the comprehensive plan and any amendment thereto, to the Council for revision or modification, and adoption, by act, following public hearings. Following adoption and prior to implementation, the Council shall submit each such element or amendment to the Commission for review and comment with regard to the impact of such element or amendment on the interests or functions of the Federal Establishment in the National Capital.

"(4)(A) The Commission shall, within sixty days after receipt of such a District element of the comprehensive plan, or amendment thereto, from the Council, certify to the Council whether such element or amendment has a negative impact on the interests or functions of the Federal Establishment in the National Capital. If within such sixty days the Commission takes no action with respect to such element or amendment, such element or amendment shall be deemed to have no such negative impact, and such element or amendment shall be incorporated into the comprehensive plan for the National Capital and shall be implemented.

"(B) If the Commission finds, within such sixty days, such negative impact, it shall certify its findings and recommendations with respect to such negative impact to the Council. Upon receipt of the Commission's findings and recommendations, the Council may—

"(i) reject such findings and recommendations and resubmit such element or amendment, in a modified form, to the Commission for reconsideration; or

"(ii) accept such findings and recommendations and modify such element or amendment accordingly.

If the Council accepts such findings and recommendations and modifies such element or amendment under clause (ii), the Council shall submit such element or amendment to the Commission for it to determine whether such modification has been made in accordance with the Commission's findings and recommendations. If, within thirty days after receipt of the modified element or amendment, the Commission takes no action with respect to such element or amendment, it shall be deemed to have been modified in accordance with such findings or recommendations, and shall be incorporated into the comprehensive plan for the National Capital and shall be implemented. If within such thirty days, the Commission again determines such element or amendment to have a negative impact on the functions or interests of the Federal Establishment in the National Capital such element or amendment shall not be implemented.

"(C) If the Council rejects the findings and recommendations of the Commission and resubmits a modified element or amendment to it under clause (i), the Commission shall, within sixty days after receipt of such modified element or amendment from the Council, determine whether such modified element or amendment has a negative impact on the interests or functions of the Federal Establishment within the National Capital. If the Commission finds such negative impact it shall certify its findings (in sufficient detail that the Council can understand the basis of the objection of the Commission) and recommendations to the Council, and such element or amendment shall not be implemented. If the Commission takes no action with respect to such modified element or amendment within such sixty days, such modified element or amendment shall be deemed to have no such negative impact and shall be incorporated into the comprehensive plan and it shall be implemented. Any element or amendment which the Commission has determined to have a negative impact on the Federal Establishment in the National Capital, and which is submitted again in a modified form not less than one year from the day it was last rejected by the Commission shall be deemed to be a new element or amendment for purposes of the review procedure specified in this section.

"(D) The Commission and the Commissioner shall jointly publish, from time to time as appropriate, a comprehensive plan for the National Capital, consisting of the elements of the comprehensive plan for the Federal activities in the National Capital developed by the Commission, and the District elements developed by the Commissioner and the Council in accordance with the provisions of this section.

"(E) The Council may grant, upon request made to it by the Commission, an extension of any time limitation contained in this section.

"(F) The Commission and the Commissioner shall jointly establish procedures for appropriate meaningful continuing consultation throughout the planning process for the National Capital.

"(b) The National Capital Planning Commission shall be composed of—

"(1) ex officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Commissioner, the Chairman of the District of Columbia Council, and the chairmen of the Committees on the District of Columbia of the Senate and the House of Representatives, or such alternates as each such person may from time to time designate to serve in his stead, and in addition,

"(2) five citizens with experience in city or regional planning, three of whom shall be appointed by the President and two of whom shall be appointed by the Commissioner. The citizen members appointed by the Commissioner shall be bona fide residents of the District of Columbia and of the three appointed by the President at least one shall be a bona fide resident of Virginia and at least one shall be a bona fide resident of Maryland. The terms of office of members appointed by the President shall be for six years, except that of the members first appointed, the President shall designate one to serve two years and one to serve four years. Members appointed by the Commissioner shall serve for four years. The members first appointed under this section shall assume their office on January 2, 1975. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The citizen members shall each receive compensation at the rate of $100 for each day such member is engaged in the actual performance of duties vested in the Commission in addition to reimbursement for necessary expenses incurred by them in the performance of such duties.".

(b) Subsection (e) of section 2 of such Act of June 6, 1924 (D.C. Code, sec. 1–1002(e), is amended by (1) inserting "Federal activities in the" immediately before "National Capital" in clause (1); and (2) striking out "and District Governments," and inserting in lieu thereof "government" in clause (2).

(c) Section 4 of such Act of June 6, 1924 (D.C. Code, sec. 1–1004), is amended as follows:

(1) The first sentence of subsection (a) of such section is amended to read as follows: "The Commission is hereby charged with the duty of preparing and adopting a comprehensive, consistent, and coordinated plan for the National Capital, which plan shall include the Commission's recommendations or proposals for Federal developments or projects in the environs, and those District elements, or amendments thereto, of the comprehensive plan adopted by the Council and with respect to which the Commission has not determined a negative impact to exist, which elements or amendments shall be incorporated into such comprehensive plan without change.".

(2) The third sentence of subsection (a) of such section is amended by striking out "within the District of Columbia" and "or District".

(3) Subsections (b) and (c) of such section are repealed.

(d) Section 5 of such Act of June 6, 1924 (D.C. Code, sec. 1–1005), is amended as follows:

(1) Subsection (c) of such section is amended to read as follows:

"(c) The provisions of section 16 of the Act approved June 20, 1938 (D.C. Code, sec. 5–428), are extended to include public buildings erected by any agency of the Government of the District of Columbia within the boundaries of the central area of the District, as such central area may be defined and from time to time redefined by concurrent action of the Commission and the Council, except that the Commission shall transmit its approval or disapproval respecting any such building within thirty days after the day it was submitted to the Commission.".

(2) The first and second sentences of subsection (e) of such section are amended to read as follows: "It is the intent of this section to obtain cooperation and correlation of effort between the various agencies of the Federal Government which are responsible for public developments and projects, including the acquisition of land. These agencies, therefore, shall look to the Commission and utilize it as the central planning agency for the Federal activities in the National Capital region.".

(e) Section 6 of such Act (D.C. Code, sec. 1–1006) is repealed.

(f) Section 7 of such Act (D.C. Code, sec. 1–1007) is amended to read as follows:

"Sec. 7. (a) The Commission shall recommend a six-year program of public works projects for the Federal Government which it shall review annually with the agencies concerned. To this end, each Federal agency shall submit to the Commission in the first quarter of each fiscal year a copy of its advance program of capital improvements within the National Capital and its environs.

"(b) The Commissioner shall submit to the Commission, by February 1 of each year, a copy of the multiyear capital improvements plan for the District developed by him under section 444 of the District of Columbia Self-Government and Governmental Reorganization Act. The Commission shall have thirty days within which to comment upon such plan but shall have no authority to change or disapprove of such plan."

(g) The first sentence of subsection (a) of section 8 of such Act of June 6, 1924 (D.C. Code, sec. 1-1008(a)), is amended to read as follows: "The Commission may make a report and recommendation to the Zoning Commission of the District of Columbia, as provided in section 5 of the Act of March 1, 1920 (D.C. Code, sec. 5-417), on proposed amendments of the zoning regulations and maps as to the relation, conformity, or consistency of such amendments with the comprehensive plan for the National Capital."

* * * * * * *

ZONING COMMISSION

SEC. 492. (a) The first section of the Act of March 1, 1920 (D.C. Code, sec. 5-412) is amended to read as follows: "That (a) to protect the public health, secure the public safety, and to protect property in the District of Columbia there is created a Zoning Commission for the District of Columbia, which shall consist of the Architect of the Capitol, the Director of the National Park Service, and three members appointed by the Mayor, by and with the advice and consent of the Council. Each member appointed by the Mayor shall serve for a term of four years, except of the members first appointed under this section—

"(1) one member shall serve for a term of two years, as determined by the Mayor;

"(2) one member shall serve for a term of three years, as determined by the Mayor; and

"(3) one member shall serve for a term of four years, as determined by the Mayor.

"(b) Members of the Zoning Commission appointed by the Mayor shall be entitled to receive compensation as determined by the Mayor, with the approval of a majority of the Council. The remaining members shall serve without additional compensation.

"(c) Members of the Zoning Commission appointed by the Mayor may be reappointed. Each member shall serve until his successor has been appointed and qualifies.

"(d) The Chairman of the Zoning Commission shall be selected by the members.

"(e) The Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law.".

(b) The Act of June 20, 1938 (D.C. Code, sec. 5-413, et seq.) is amended as follows:

(1) The first sentence of section 2 of such Act (D.C. Code, sec. 5-414) is amended by striking out "Such regulations shall be made in accordance with a comprehensive plan and" and inserting in lieu thereof "Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the National Capital, and zoning regulations shall be".

(2) Section 5 of such Act (D.C. Code, sec. 5-417) is amended to read as follows:

"SEC. 5. (a) No zoning regulation or map, or any amendment thereto, may be adopted by the Zoning Commission until the Zoning Commission—

"(1) has held a public hearing, after notice, on such proposed regulation, map, or amendment; and

"(2) after such public hearing, submitted such proposed regulation, map, or amendment to the National Capital Planning Commission for comment and review.

If the National Capital Planning Commission fails to submit its comments regarding any such regulation, map, or amendment within thirty days after submission of such regulation, map, or amendment to it, then the Zoning Commission may proceed to act upon the proposed regulation, map, or amendment without further comment from the National Capital Planning Commission.

"(b) The notice required by clause (1) of subsection (a) shall be published at least thirty days prior to such public hearing and shall include a statement as to the time and place of the hearing and a summary of all changes in existing zoning regulations which would be made by adoption of the proposed regulation, map, or amendment. The Zoning Commission shall give such additional notice as it deems expedient and practicable. All interested persons shall be given a reasonable opportunity to be heard at such public hearing. If the hearing is adjourned from time to time, the time and place of reconvening shall be publicly announced prior to adjournment.

"(c) The Zoning Commission shall deposit with the National Capital Planning Commission all zoning regulations, maps, or amendments thereto, adopted by it."

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Office of the Embassy, 3900 Linnean Avenue 20008. Phone, 363-6315

Dr. Jaromir Johanes, Ambassador Extraordinary and Plenipotentiary

DENMARK

Office of the Embassy, 3200 Whitehaven Street 20008. Phone, ADams 4-4300

Otto R. Borch, Ambassador Extraordinary and Plenipotentiary

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- Florida
  - Jacksonville
  - Miami
  - Tampa
- Georgia
  - Atlanta
  - Savannah
- Hawaii, Honolulu
- Illinois, Chicago
- Iowa, Des Moines
- Louisiana, New Orleans
- Maryland, Baltimore
- Massachusetts
  - Boston
  - Gloucester
- Michigan, Detroit
- Minnesota, Minneapolis
- Missouri
  - Kansas City
  - St. Louis
- Nebraska, Omaha
- New York, New York City
- Ohio, Cleveland
- Oregon, Portland
- Pennsylvania, Philadelphia
- Puerto Rico, San Juan
- Rhode Island, Providence
- South Carolina, Charleston
- Texas
  - Dallas
  - Houston
- Utah, Salt Lake City
- Virginia, Norfolk
- Virgin Islands
  - Charlotte Amalie
  - St. Thomas
- Washington, Seattle
- Wisconsin, Milwaukee

DOMINICAN REPUBLIC

Office of the Embassy, 1715 22d Street 20008. Phone, DEcatur 2-6280

Enriquillo A. del Rosario, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

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- California
  - Culver City
  - Hollywood
  - Los Angeles
  - Pasadena
  - San Diego
  - San Francisco
  - Santa Monica
- Colorado, Denver
- Connecticut, Bridgeport
- District of Columbia, Washington
- Florida
  - Coral Gables
  - Fort Pierce
  - Gainesville
  - Hollywood
  - Jacksonville

DOMINICAN REPUBLIC—Continued

Consular Offices—Continued

- Florida
  - Miami
  - Miami Beach
  - Panama City
  - Sarasota
  - South Miami
  - Tallahassee
  - West Palm Beach
- Georgia
  - Atlanta
  - Savannah
- Hawaii, Honolulu
- Illinois
  - Chicago
  - Wheaton
- Indiana
  - East Chicago
  - Fort Wayne
- Louisiana
  - Baton Rouge
  - Lake Charles
  - New Orleans
- Maryland
  - Annapolis
  - Baltimore
- Massachusetts, Boston
- Michigan, Detroit
- Minnesota
  - Minneapolis
  - Rochester
- Missouri, St. Louis
- Montana, Great Falls
- New Mexico, Albuquerque
- New York
  - New York City
  - New Rochelle
- North Carolina, Charlotte
- Ohio
  - Cincinnati
  - Cleveland
  - Columbus
- Oregon, Portland
- Pennsylvania
  - Philadelphia
  - Wyndmoor
- Puerto Rico
  - Arecibo
  - Bayamon
  - Guanica
  - Guayama
  - Humacao
  - Juana Diaz
  - Mayagüez
  - Ponce
  - San Juan
- Rhode Island, Providence
- Tennessee
  - Memphis
  - Nashville
- Texas
  - Corpus Christi
  - Dallas
  - Fort Worth
  - Galveston
  - Houston
- Virgin Islands
  - Charlotte Amalie
  - St. Thomas
- Virginia, Richmond
- Washington, Seattle
- Wisconsin, Milwaukee

ECUADOR

Office of the Embassy, 2535 15th Street 20009. Phone, ADams 4-7200

Ricardo Crespo-Zaldumbide, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

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  - San Diego
  - San Francisco
- District of Columbia, Washington
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  - Coral Gables
  - Fort Lauderdale
  - Miami
  - Tampa
- Illinois, Chicago
- Louisiana, New Orleans
- Maryland, Baltimore
- Massachusetts, Boston
- Michigan, Detroit
- Nevada, Las Vegas
- New York
  - Buffalo
  - New York City
- Pennsylvania, Philadelphia
- Puerto Rico, San Juan
- South Carolina, Lake City
- Texas
  - Austin
  - Dallas
  - Houston

ECUADOR—Continued

Consular Offices—Continued

- Washington, Seattle

EGYPT, ARAB REPUBLIC OF

Office of the Embassy, 2310 Decatur Place 20008. Phone, 232-5400

Ashraf A. Ghorbal, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
- California, San Francisco
- District of Columbia, Washington
- Illinois, Chicago
- New York, New York City
- Texas, Houston

EL SALVADOR

Office of the Embassy, 2308 California Street 20008. Phone, COlumbia 5-3480

Francisco Aquino, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
- Alabama, Mobile
- Arizona, Phoenix
- California
  - Los Angeles
  - Oakland
  - San Diego
  - San Francisco
- Colorado, Denver
- District of Columbia, Washington
- Florida
  - Coral Gables
  - Fort Lauderdale
  - Hollywood
  - Miami
  - Tampa
- Georgia, Atlanta
- Illinois, Chicago
- Kentucky, Louisville
- Louisiana
  - New Orleans
  - Metairie
- Maryland, Baltimore
- Michigan, Detroit
- Missouri, St. Louis
- Nevada, Reno
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- Oregon, Portland
- Pennsylvania, Philadelphia
- Puerto Rico
  - Bayamon
  - San Juan
- Texas
  - Houston
  - Laredo
  - San Antonio
- Virginia, Richmond
- Wisconsin, Madison

EQUATORIAL GUINEA

440 East 62d Street, Apt. 6D, New York, N.Y. 10021.

Don Carmelo Nvono-Nca, Ambassador Extraordinary and Plenipotentiary

ESTONIA

Office of the Consulate General, 9 Rockefeller Plaza New York City 10020. Phone, CIrcle 7-1450

Dr. Ernst Jaakson, Consul General of Estonia at New York City in charge of Legation

Consular Offices:
- California, Los Angeles
- New York, New York City

ETHIOPIA

Office of the Embassy, 2134 Kalorama Road 20008. Phone, ADams 4-2281

Tesfaye Demeke, Chargé d'Affaires a.i.

FIJI

Office of the Embassy, Suite 520, 1629 K Street 20006. Phone, 296-3928

Filipe N. Bole, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
- California, San Francisco
- New York, New York City

FINLAND

Office of the Embassy, 3216 New Mexico Avenue 20016. Phone 363-2430

Jaakko Iloniemi, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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- Alaska, Anchorage
- Arizona, Phoenix
- California
  - Los Angeles
  - San Diego
  - San Francisco
- Colorado, Denver
- Connecticut, Norwich
- Florida
  - Jacksonville
  - Lake Worth
  - Miami
  - Tampa
- Georgia, Atlanta
- Hawaii, Honolulu
- Illinois, Chicago
- Louisiana, New Orleans
- Maryland, Baltimore
- Massachusetts
  - Boston
  - Fitchburg
- Michigan
  - Detroit
  - Hancock
  - Ishpeming
- Minnesota
  - Duluth
  - Minneapolis
- Missouri, Kansas City
- Montana, Butte
- New York, New York City
- North Carolina, Wilmington
- Ohio
  - Ashtabula
  - Cleveland
- Oregon
  - Astoria
  - Portland
- Pennsylvania, Philadelphia
- Puerto Rico, San Juan
- Texas
  - Dallas
  - Houston
- Utah, Salt Lake City
- Virgin Islands, St. Thomas
- Virginia
  - Alexandria
  - Newport News
- Washington, Seattle

FRANCE

Office of the Embassy, 2535 Belmont Road 20008. Phone, AD 4-0990

Francois de Laboulaye, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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  - Birmingham
  - Mobile
- Alaska
  - Anchorage
  - Juneau
- American Samoa, Pago Pago
- Arkansas, Little Rock
- Arizona, Phoenix
- California
  - Los Angeles
  - Monterey
  - Sacramento
  - San Diego
  - San Francisco
- Colorado, Denver
- Connecticut, Hartford
- Delaware, Wilmington
- District of Columbia, Washington
- Florida
  - Jacksonville
  - Miami
  - Tampa
- Georgia, Atlanta
- Hawaii, Honolulu

FRANCE—Continued

Consular Offices—Continued

- Illinois, Chicago
- Indiana, Indianapolis
- Iowa, Des Moines
- Kansas, Kansas City
- Kentucky, Louisville
- Louisiana
  - Lafayette
  - New Orleans
  - Shreveport
- Maine, Portland
- Maryland, Baltimore
- Massachusetts
  - Boston
  - Fall River
- Michigan, Detroit
- Minnesota, Minneapolis
- Missouri, St. Louis
- Montana, Missoula
- Nebraska, Omaha
- Nevada
  - Las Vegas
  - Reno
- New Hampshire, Manchester
- New York
  - Buffalo
  - New York City
  - Rochester
- North Dakota, Bismark
- Ohio
  - Cincinnati
  - Columbus
- Oklahoma
  - Oklahoma City
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  - Philadelphia
  - Pittsburgh
- Puerto Rico
  - Mayagüez
  - Ponce
  - San Juan
- South Carolina, Spartanburg
- Tennessee
  - Memphis
  - Nashville
- Texas
  - Amarillo
  - Austin
  - Dallas
  - Houston
  - Laredo
  - San Antonio
- Utah, Salt Lake City
- Virginia, Norfolk
- Virgin Islands, Saint Thomas
- Washington, Seattle
- West Virginia, Wheeling
- Wisconsin, Milwaukee
- Wyoming, Rock Springs

GABON

Office of the Embassy, 2210 R Street 20008. Phone, 797–1000

Aboubakar Bokoko, Ambassador Extraordinary and Plenipotentiary

Consular Office: New York, New York City

THE GAMBIA

Office of the Embassy, 1785 Massachusetts Avenue 20036. Phone, 265–3252

Ousman A. Sallah, Ambassador Extraordinary and Plenipotentiary

Consular Office: New York, Stanfordville

GERMAN DEMOCRATIC REPUBLIC

Office of the Embassy, 1717 Massachusetts Avenue 20036. Phone, 232–3134

Dr. Horst Grunert, Ambassador Extraordinary and Plenipotentiary

GERMANY, FEDERAL REPUBLIC OF

Office of the Embassy, 4645 Reservoir Road 20007. Phone, 331–3000

Peter Hermes, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

- Alabama, Mobile
- Alaska, Anchorage

GERMANY, FEDERAL REPUBLIC OF—Continued

Consular Offices—Continued

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- Arizona, Phoenix
- California
  - Los Angeles
  - San Diego
  - San Francisco
- Colorado, Denver
- District of Columbia, Washington
- Caribbean Islands, Santo Domingo, Dominican Republic (for the Virgin Islands)
- Florida
  - Jacksonville
  - Miami
  - St. Petersburg
- Georgia
  - Atlanta
  - Savannah
- Hawaii, Honolulu
- Illinois, Chicago
- Indiana, Indianapolis
- Kansas, Kansas City
- Kentucky, Louisville
- Louisiana, New Orleans
- Massachusetts, Boston
- Michigan, Detroit
- Minnesota, Minneapolis
- New York
  - Buffalo
  - New York City
- North Carolina, Charlotte
- Ohio
  - Cincinnati
  - Cleveland
- Oklahoma, Oklahoma City
- Oregon, Portland
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- Pennsylvania
  - Philadelphia
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- Tennessee, Memphis
- Texas
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  - Houston
- Utah, Salt Lake City
- Virginia, Norfolk
- Washington
  - Seattle
  - Spokane

GHANA

Office of the Embassy, 2460 16th Street 20009. Phone, 462–0761

Dr. Joseph K. Baffour-Senkyire, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

- Illinois, Chicago
- New York, New York City

GREAT BRITAIN

Office of the Embassy, 3100 Massachusetts Avenue 20008. Phone, HObart 2–1340

Sir Nicholas Henderson, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

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  - San Francisco
- District of Columbia, Washington
- Georgia, Atlanta
- Illinois, Chicago
- Louisiana, New Orleans
- Massachusetts, Boston
- Michigan, Detroit
- Missouri, Kansas City
- New York, New York City
- Ohio, Cleveland
- Oregon, Portland
- Pacific Islands
  - Tonga
  - Nuku'alofa
- Pennsylvania, Philadelphia
- Texas
  - Dallas
  - Houston
- Virginia, Norfolk
- Washington, Seattle

GREECE

Office of the Embassy, 2221 Massachusetts Avenue 20008. Phone, NOrth 7-3168

John A. Tzounis, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
- California, San Francisco
- Illinois, Chicago
- Louisiana, New Orleans
- Massachusetts, Boston
- New York, New York City

GRENADA

Office of the Embassy, 1424 16th Street, Suite 203. Phone, 347-3198

Bernard K. Radix, Ambassador Extraordinary and Plenipotentiary

Consular Office:
- New York, New York City

GUATEMALA

Office of the Embassy, 2220 R Street 20008. Phone, DEcatur 2-2865

Gen. Felipe Doroteo Monterroso, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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  - Huntsville
- California
  - Los Angeles
  - Palm Springs
  - Dan Diego
  - San Francisco
  - San Mateo
- Colorado, Denver
- Florida
  - Jacksonville
  - Miami
  - Orlando
  - Pensacola
- Georgia, Atlanta
- Hawaii, Honolulu
- Illinois, Chicago
- Louisiana, New Orleans
- Maryland, Baltimore
- Massachusetts, Boston
- Michigan, Detroit
- Minnesota, Minneapolis
- Missouri, St. Louis
- New York, New York City
- Ohio, Newark
- Pennsylvania
  - Philadelphia
  - Pittsburgh
- Puerto Rico, San Juan
- Tennessee, Memphis
- Texas
  - Abilene
  - Austin
  - Brownsville
  - Corpus Christi
  - Dallas
  - Fort Worth
  - Galveston
  - Houston
  - Laredo
  - San Antonio
  - San Juan
- Washington, Seattle

GUINEA

Office of the Embassy, 2112 Leroy Place 20008. Phone, HUdson 3-9420

Mamady Lamine Conde, Ambassador Extraordinary and Plenipotentiary

GUINEA BISSAU

Office of the Embassy, Care of the Permanent Mission of Guinea Bissau to the UN, 211 East 43d Street, Suite 604, New York, N.Y. 10017. Phone, 212-661-3977

——— ———, Ambassador Extraordinary and Plenipotentiary

GUYANA

Office of the Embassy, 2490 Tracy Place 20008. Phone, 265-6900

Laurence E. Mann, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
- California, Los Angeles
- Florida, Laurel Hill
- Indiana, East Chicago
- New York, New York City
- Texas, Waco

HAITI

Office of the Embassy, 2311 Massachusetts Avenue 20008. Phone, 332-4090

Serge Elie Charles, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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- Georgia, Atlanta
- Illinois, Chicago
- Indiana, Evansville
- Louisiana, New Orleans
- Massachusetts, Boston
- Michigan, Detroit
- New York, New York City
- Ohio, Cleveland
- Pennsylvania
  - Easton
  - Philadelphia
- Puerto Rico, San Juan
- Texas, Houston
- Virgin Islands, Charlotte Amalie
- Virginia, Hampton

HONDURAS

Office of the Embassy, 4301 Connecticut Avenue, Suite 408 20008. Phone, 966-7700

Federico Poujol, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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- Arizona, Tucson
- California
  - Burlingame
  - La Habra
  - Los Angeles
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  - San Francisco
- Colorado, Denver
- District of Columbia, Washington
- Florida
  - Coral Gables
  - Ft. Lauderdale
  - Gainesville
  - Miami
  - Sarasota
  - Tampa
- Georgia, Atlanta
- Hawaii, Honolulu
- Illinois, Chicago
- Louisiana
  - Metairie
  - New Orleans
- Maryland, Baltimore
- Massachusetts, Boston
- Michigan, Detroit
- Missouri, St. Louis
- New York, New York City
- Ohio, Cleveland
- Oregon, Portland
- Pennsylvania, Philadelphia
- Puerto Rico
  - Cayey
  - Ponce
  - San Juan
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- Texas
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- Washington, Seattle

HUNGARY

Office of the Embassy, 3910 Shoemaker Street 20008. Phone 362-6730

Ferenc Esztergalyos, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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- New York, New York City

ICELAND

Office of the Embassy, 2022 Connecticut Avenue 20008. Phone, COlumbia 5-6653

Hans G. Anderson, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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- Massachusetts, Boston
- Michigan, Detroit
- Minnesota, Minneapolis
- New York, New York City
- Oregon, Portland
- Pennsylvania
  - Harrisburg
  - Philadelphia
- Texas
  - Dallas
  - Houston
- Virginia, Norfolk
- Washington, Seattle

INDIA

Office of the Embassy, 2107 Massachusetts Avenue 20008. Phone, COlumbia 5-5050

K. R. Narayanan, Ambassador Extraordinary and Plenipotentiary

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- Hawaii, Honolulu
- Illinois, Chicago
- Louisiana, New Orleans
- New York, New York City
- Ohio, Cleveland
- Texas, Houston
- Washington, Seattle

INDONESIA

Office of the Embassy, 2020 Massachusetts Avenue 20036. Phone, 293-1745

D. Ashari, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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- Hawaii, Honolulu
- New York, New York City

IRELAND

Office of the Embassy, 2234 Massachusetts Avenue 20008. Phone, HUdson 3-7639

Sean Donlon, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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- Illinois, Chicago
- Massachusetts, Boston
- Missouri, St. Louis
- New York, New York City

ISRAEL

Office of the Embassy, 3514 International Drive 20008. Phone, 364-5500

Ephriam Evron, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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  - Los Angeles
  - San Francisco

ISRAEL—Continued

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- Georgia, Atlanta
- Illinois, Chicago
- Massachusetts, Boston
- New York, New York City
- Pennsylvania, Philadelphia
- Texas, Houston

ITALY

Office of the Embassy, 1601 Fuller Street 20009. Phone, 328-5500

Paolo Pansa Cedronio, Ambassador Extraordinary and Plenipotentiary

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- Arizona, Phoenix
- Arkansas, Little Rock
- California
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  - San Diego
  - San Francisco
  - San Jose
  - Santa Barbara
  - Stockton
- Colorado, Denver
- Florida
  - Jacksonville
  - Miami
  - Tampa
- Georgia
  - Atlanta
  - Savannah
- Hawaii, Honolulu
- Illinois, Chicago
- Indiana, Indianapolis
- Kansas, Kansas City
- Louisiana, New Orleans
- Maine, Portland
- Maryland, Baltimore
- Massachusetts
  - Boston
  - Springfield
  - Worcester
- Michigan, Detroit
- Minnesota, St. Paul
- Missouri, St. Louis
- Nevada
  - Reno
  - Las Vegas
- New Jersey
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  - Trenton
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- New York
  - Albany
  - Buffalo
  - New York City
  - Rochester
  - Yonkers
- Ohio
  - Cincinnati
  - Cleveland
- Oregon, Portland
- Pennsylvania
  - Philadelphia
  - Pittsburgh
- Puerto Rico, San Juan
- Tennessee, Memphis
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  - Dallas
  - Galveston
  - Houston
- Utah, Salt Lake City
- Virginia, Norfolk
- Washington, Seattle

IVORY COAST

Office of the Embassy, 2424 Massachusetts Avenue 20008. Phone, HU 3-2400

Timothé N'Guetta Ahoua, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
- California, Los Angeles
- Michigan, Detroit
- Missouri, St. Louis

IVORY COAST—Continued

Consular Offices—Continued

Oregon, Portland

JAMAICA

Office of the Embassy, 1666 Connecticut Avenue 20009. Phone, 387-1010

Keith Johnson, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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    Sacramento
  District of Columbia, Washington
  Florida, Miami
  Illinois, Chicago
  New York, New York City

JAPAN

Office of the Embassy, 2520 Massachusetts Avenue 20008. Phone, ADams 4-2266

Yoshio Okawara, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
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  Alaska, Anchorage
  American Samoa, Pago Pago
  Arizona, Phoenix
  California {Los Angeles
    San Diego
    San Francisco
  Colorado, Denver
  Florida, Miami
  Georgia, Atlanta
  Guam, Aganá
  Hawaii, Honolulu
  Illinois, Chicago
  Louisiana, New Orleans
  Massachusetts, Boston
  Michigan, Detroit
  Minnesota, Minneapolis
  Missouri {Kansas City
    St. Louis
  New York, New York City
  Ohio, Cleveland
  Oregon, Portland
  Pacific Islands, Saipan
  Pennsylvania, Philadelphia
  Puerto Rico, San Juan
  Texas, Houston
  Washington, Seattle

JORDAN

Office of the Embassy, 2319 Wyoming Avenue 20008. Phone, COlumbia 5-1606

Al-Sharif Fawaz Sharaf, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
  Arizona, Scottsdale
  California, Los Angeles
  District of Columbia, Washington
  Florida, Palm Beach
  Texas, Houston

KENYA

Office of the Embassy, 2249 R Street 20008. Phone, 387-6101

John P. Mbogua, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
  California, Los Angeles
  New York, New York City

KOREA

Office of the Embassy, 2320 Massachusetts Avenue 20008. Phone, 483-7383

Yong Shik Kim, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
  Alabama, Mobile

KOREA—Continued

Consular Offices—Continued
  Alaska, Anchorage
  Arizona, Phoenix
  California {Los Angeles
    San Francisco
  Colorado, Denver
  District of Columbia, Washington
  Florida {Miami
    Tampa
  Georgia, Atlanta
  Guam, Aganá
  Hawaii, Honolulu
  Illinois {Chicago
    Evanston
  Kansas, Kansas City
  Louisiana, New Orleans
  Massachusetts, Boston
  Michigan, Detroit
  Minnesota, Minneapolis
  Missouri, St. Louis
  New York, New York City
  Ohio, Cleveland
  Oklahoma, Oklahoma City
  Oregon, Portland
  Pennsylvania, Philadelphia
  Puerto Rico, San Juan
  Texas {Dallas
    Houston
    San Antonio
  Washington, Seattle

KUWAIT

Office of the Embassy, 2940 Tilden Street 20008. Phone, 966-0702

Shaikh Saud Nasir Al-Sabah, Ambassador Extraordinary and Plenipotentiary

Consular Office: New York, New York City

LAOS

Office of the Embassy, 2222 S Street 20008. Phone, DEcatur 2-6416

Khamtan Ratanavong, Counselor, Chargé d'Affaires a.i.

LATVIA

Office of the Legation, 4325 17th Street 20011. Phone, RAndolph 6-8213

Dr. Anatol Dinbergs, Chargé d'Affaires

Consular Offices:
  California, Los Angeles
  District of Columbia, Washington

LEBANON

Office of the Embassy, 2560 28th Street 20008. Phone, 332-0303

Khalil Itani, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
  Arizona, Mesa
  California, Los Angeles
  Florida, Miami
  Illinois, Chicago
  Michigan, Detroit
  New Jersey, Orange
  New York, New York City
  North Carolina, Goldsboro
  Oregon, Portland
  Puerto Rico, San Juan
  Texas {Dallas
    Houston

LESOTHO

Office of the Embassy, 1601 Connecticut Avenue, Suite 300 20009. Phone, 462-1190

'M'alineo N. Tau, Ambassador Extraordinary and Plenipotentiary

Consular Offices:
  Arkansas, North Little Rock
  California, San Francisco

LESOTHO—Continued

Consular Offices—Continued

Colorado, Denver
Connecticut, Greenwich
Florida, Miami
Illinois, Chicago
Missouri, St. Louis
Pennsylvania, Philadelphia
Texas, Houston

LIBERIA

Office of the Embassy, 5201 16th Street 20011. Phone, RAndolph 3-0437

William Bull, Counselor, Chargé d'Affaires a.i.

Consular Offices:

Alabama, Birmingham
California, Los Angeles
Colorado, Denver
District of Columbia, Washington
Illinois, Chicago
Louisiana, New Orleans
Michigan, Detroit
New York, New York City
Pennsylvania. Philadelphia

Texas	Houston Port Arthur

LIBYA

Office of the Embassy, 2344 Massachusetts Avenue 20008. Phone, 232-1315

Dr. Ali Elhouderi, Secretary of People's Committee

LITHUANIA

Office of the Legation, 2622 16th Street 20009. Phone, ADams 4-5860

Dr. Stasys A. Backis, Chargé d'Affaires

Consular Offices:

California, Los Angeles
Illinois, Chicago
New York, New York City

LUXEMBOURG

Office of the Embassy, 2210 Massachusetts Avenue 20008. Phone, 265-4171

Adrien Meisch, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

California	Los Angeles San Francisco

Connecticut, New Haven
Georgia, Atlanta
Illinois, Chicago
Missouri Kansas City
New York, New York City
Ohio, Oxford
Texas, Fort Worth

MALAGASY REPUBLIC

Office of the Embassy, 2374 Massachusetts Avenue 20008. Phone, 265-5525

Henri Jux Ratsimbazafy, Minister, Chargé d'Affaires a.i.

Consular Offices:

California, San Francisco
New York, New York City

MALAWI

Office of the Embassy, 2362 Massachusetts Avenue 20008. Phone, 234-9313

Jacob T. X. Muwamba, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

California	Los Angeles San Francisco

Texas, Houston

MALAYSIA

Office of the Embassy, 2401 Massachusetts Avenue 20008. Phone, ADams 4-7600

Zain Azraai, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

California	Los Angeles San Francisco

District of Columbia, Washington
Hawaii, Honolulu
Oregon, Portland

MALI

Office of the Embassy, 2130 R Street 20008. Phone, DE 2-2249

Maki Koreissi Aguibou Tall, Ambassador Extraordinary and Plenipotentiary

Consular Office: Missouri, St. Louis

MALTA

Office of the Embassy, 2017 Connecticut Avenue 20008. Phone, 462-3611

Emanuel C. Farrugia, Counselor, Chargé d'Affaires a.i.

Consular Offices:

California	Los Angles San Francisco

District of Columbia, Washington
Massachusetts, Boston
Minnesota, St. Paul
Missouri, St. Louis
New York, New York City
Pennsylvania, Carnegie

MAURITANIA

Office of the Embassy, 2129 Leroy Place 20008. Phone, 232-5700

Abdellah Ould Daddah, Ambassador Extraordinary and Plenipotentiary

MAURITIUS

Office of the Embassy, Suite 134, 4301 Connecticut Avenue 20008. Phone, 244-1491

Chitmansing Jesseramsing, Minister-Counselor, Chargé d'Affaires a.i.

MEXICO

Office of the Embassy, 2829 16th Street 20009. Phone, ADams 4-6000

Hugo B. Margain, Ambassador Extraordinary and Plenipotentiary

Consular Offices:

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Arizona	Douglas Nogales Phoenix Tucson
California	Calexico Fresno Los Angeles Sacramento San Bernardino San Diego San Francisco San José

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District of Columbia, Washington

Florida	Miami Tampa

Georgia, Atlanta
Hawaii, Honolulu
Illinois, Chicago
Louisiana, New Orleans
Massachusetts, Boston
Michigan, Detroit
Minnesota, Rochester

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MOROCCO

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April 27, 1982

TO : Senate Committee on Governmental Affairs
Subcommittee on Government Efficiency and
the District of Columbia
Attn: Marion Morris

FROM : American Law Division

SUBJECT : Privileges and Immunities Granted Career Consular Officers and Honorary Consular Officers

In response to your request for a listing of the provisions of the Vienna Convention on Consular Relations, 21 U.S.T. 77, that do and do not apply to honorary consular officers, we have prepared the enclosed report. As noted, the status of members of consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the Convention, an article limiting the applicability of the Convention's provisions to these individuals. Article 71 sets forth the Convention articles applicable to nationals and permanent residents, but recognizes that the receiving State may extend additional facilities, privileges, and immunities to them. It would appear, then, that an honorary consul who is not an American national or permanent resident would be entitled to the privileges and immunities accorded him under Chapter III of the Convention, including the exemption from taxes on any remuneration received from the sending State for exercising his consular functions. The honorary consular officer who is an American national or permanent resident would be entitled only to those facilities, privileges, and immunities specifically provided for in Article 71, along with any others the United States chooses to grant him. Thus, the United States collects income tax on the salary of any United States citizen employed by a foreign government received as compensation for his or her official services to that government. 26 U.S.C. § 893.

We hope that this information will be helpful to you and that you will call upon us if you have any additional questions.

Jeanne Jagelski

Jeanne Jagelski
Legislative Attorney

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Washington, D.C. 20540

COMPARISON OF FACILITIES, PRIVILEGES, AND IMMUNITIES GRANTED CAREER CONSULAR OFFICERS AND HONORARY CONSULAR OFFICERS UNDER THE VIENNA CONSULAR CONVENTION

Jeanne Jagelski
Legislative Attorney
American Law Division
April 27, 1982

COMPARISON OF FACILITIES, PRIVILEGES, AND IMMUNITIES GRANTED CAREER CONSULAR OFFICERS AND HONORARY CONSULAR OFFICERS UNDER THE VIENNA CONSULAR CONVENTION

This report compares the facilities, privileges and immunities that the Vienna Convention on Consular Relation, 21 U.S.T. 77, grants career consular officers with those it grants honorary consular officers. The Convention initially distinguishes between these two types of officers in Article 1(2) and provides separate chapters applicable to each type of officer and the posts he or she heads. Chapter II (articles 28-58) applies to career consular officers; chapter III (articles 58-68), to honorary officers. The Convention specifically provides that its privileges and immunities are not to be accorded to an honorary consul's family members or to the consular employees employed at a post headed by such an officer. Art. 58(3).

The status of consular post members who are nationals or permanent residents of the receiving State is governed by a separate Convention article limiting the Convention provisions applicable to them. Art. 1(3). Thus, article 71 provides that except for additional facilities, privileges, and immunities granted by the receiving State, such consular officers (including both career and honorary consuls) enjoy immunity from jurisdiction and personal inviolability regarding their official acts. In addition, these officers are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence relating to these functions, and are entitled to decline to give evidence as expert witnesses regarding the law of the sending State. These privileges are granted non-nationals and those who are not permanent residents in article 44(3). Further, in the event such individuals are arrested or detained pending trial, or have criminal proceedings instituted against them, the receiving State must promptly notify the sending State through diplomatic channels (where the head of the post is involved) or the head of the post (where a consular staff member is involved), as provided in article 42. Except where the officer is arrested or detained, criminal proceedings must be conducted in a manner that will hamper the exercise of consular functions as little as possible. Art. 71(1). Other members of the post and their families who are nationals or permanent residents of the receiving State, are entitled to facilities, privileges, and immunities, only insofar as the receiving State grants them. Art. 71(2).

Career Consular Officers	Honorary Consular Officers
Receiving State to provide full facilities for performance of consular post functions. Art. 28.	Same. Art. 58(1).
Right to national flag and coat-of-arms. Art. 29.	Same. Art. 58(1)
Receiving State to facilitate acquisition of consular premises. Art. 30.	Same. Art. 58(1).
Inviolability of consular premises: (1) receiving State authorities not to enter consular premises without consent of head of post (implies consent where fire, etc.); (2) receiving State "under special duty to take all appropriate steps" to protect premises against intrusion and damage and to prevent disturbance of the peace and impairment of post's dignity; (3) consular premises immune from national requisition by receiving State for its national defense or public utility. Art. 31.	No inviolability article, but receiving State to take "such steps as shall be necessary" to protect premises from against any intrusion or damage and to prevent any disturbance of the peace at the post or impairment of its dignity. Art. 59.

Career Consular Officers	Honorary Consular Officers
Consular premises and residence of head of post owned or leased by sending State or any person acting on its behalf exempted from taxation. Art. 32.	Consular premises owned or leased by the sending State exempted from taxation. Art. 60.
Consular archives and documents inviolable at all times and wherever they may be. Art. 33.	Consular archives and documents inviolable at all times and wherever they may be, provided they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of consular post and of any person working with him, and from the materials, books, or documents relating to their profession or trade. Art. 61.
Freedom of movement. Art. 34.	Same. Art. 58(1).
Freedom of communication; inviolability of official correspondence; inviolability of consular bag, except where receiving State authorities have serious reason to believe it contains unofficial matter. Art. 35.	Same. Art. 58(1).
Freedom of communication and contact with nationals of the sending State, including access to those in prison, custody, or detention. Art. 36.	Same. Art. 58(1).
Authorities of receiving State have the duty to provide information in cases of death, guardianship or trusteeship, wrecks, and air accidents. Art. 37.	Same. Art. 58(1).
Officers may communicate with authorities of the receiving State. Art. 38.	Same. Art. 58(1).

Career Consular Officers	Honorary Consular Officers
Consular post may levy fees and charges provided by sending State laws and regulations for consular acts. Art. 39.	Same. Art. 58(1).
Receiving State to treat consular officers with due respect and take all appropriate steps to prevent any attack on their person, freedom, and dignity. Art. 40.	Receiving State under a duty to accord honorary consular officer protection needed by reason of his official position. Art. 64.
Officer not liable to arrest or detention pending trial, except in case of grave crime and pursuant to decision by the competent judicial authority. Art. 41.	If criminal proceedings instituted against honorary consular officer, he must appear before competent authorities. Proceedings to be conducted with respect due him by reason of his official position and, except when he is under arrest or detention, in a manner that will hamper the exercise of his functions as little as possible. When necessary to detain an officer, proceedings to begin with minimum of delay. Art. 63.
In case of arrest, detention, or prosecution, receiving State to notify head of consular post (if member of consular staff) or sending State (if head of post). Art. 42.	Same. Art. 58(2).
Officers are immune from jurisdiction for acts performed in exercise of consular functions; no immunity where contracts or damage from vehicle, vessel, or aircraft accidents are involved. Art. 43.	Same. Art. 58(2).
Consular post members may not be called upon to serve as witnesses in judicial or administrative proceedings; consular employees or service staff members must not decline to give evidence (except as provided in Art. 44(3), but no coercive measures or penalties may be applied to them if they do decline. Art. 44(1).	Not applicable.

Career Consular Officers	Honorary Consular Officers
Sending State authorities requiring evidence of a consular officer are to avoid interfering with the performance of his functions. Art. 44(1).	Not applicable.
Consular post members are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating to them. They are entitled to decline to give evidence as expert witnesses regarding the law of the sending State. Art. 44(3).	Same. Art. 58(2).
Sending State may waive any of the privileges and immunities provided for in Arts. 41, 43, and 44. Art. 45.	Same. Art. 58(2).
Consular officers and employees and family members forming part of their households are exempt from all receiving State requirements regarding alien registration and residence permits; this waiver not applicable to consular employees who are not permanent employees of the sending State or who carry on private gainful occupation in the receiving State or to any family member of such employees. Art. 46.	Officers, except those who carry on professional and commercial activities for profit in the receiving State, to be exempt from receiving State requirements governing alien registration and residence permits. Art. 65.
With regard to services rendered for sending State, consular post members exempt from receiving State obligations governing work permits for foreign labor; members of the consular officers' and consular employees' private staffs also so exempt, if they do not carry out any other gainful employment in the receiving State. Art. 47.	Inapplicable.

Career Consular Officers	Honorary Consular Officers
Members of the consular post, with respect to services rendered by them for the sending State, and members of their families forming part of their personal households, are exempt from receiving State social security requirements. This also applies to private staff of above if they are not nationals or permanent residents of the receiving State and are covered by social security in the sending State or a third State; where private staff exemption does not apply, employers to observe receiving State social security provisions imposed on employers. Art. 48.	Inapplicable.
Consular officers and employees, and members of their families exempt from all taxes except: indirect taxes normally incorporated in the price of goods and services, taxes on private income having its source in the receiving State and capital taxes relating to investments made in the receiving State, taxes on private immovable property located in the receiving State, estate, etc. taxes, and duties on transfers, charges for specific services rendered, and registration, court or record fees, mortgage dues and stamp duties. Service staff exempt from taxes on their wages. Art. 49.	Officers exempt from all dues and taxes on the remuneration and emoluments they receive from the sending State for exercising their consular functions. Art. 66.
Receiving State to permit entry of and adopt grant exemptions from all customs duties, taxes, and related charges, on (a) articles for official use of the consular post and (b) articles for the personal use of a consular officer or members of his family forming part of his household. Consular employees to enjoy same privileges with regard to articles imported at the time of first installation. Personal baggage accompanying consular officers and family members exempt from inspection unless there is serious reason to believe it contains unofficial articles or articles whose import or export the receiving State prohibits or which it quarantines. Art. 50.	Receiving State to permit entry of, and grant exemption from all customs duties, taxes and related charges for following articles, provided they are used for official use of consular post: coat-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post. Art. 62.

Career Consular Officers	Honorary Consular Officers
In the event of the death of a consular post member or of a member of his family, the receiving State is to permit of the export of the deceased's movable property and not to levy any national, regional or municipal estate taxes or duties on transfers on movable property located in the receiving State on account of the deceased's presence there as a consular officer or family member thereof. Art. 51.	Not applicable.
Consular post members and their families exempted from all personal services, public services, and military obligations otherwise required by the receiving State. Art. 52.	Only honorary consular officer so exempted. Art. 52.
Convention privileges and immunities to be enjoyed from moment consular post member enters the receiving State's territory, or, if already in its territory, from the moment he takes up his duties at the consular post; when his consular functions end, privileges and immunities end when officer leaves the receiving State or upon the expiry of a reasonable period of time, whichever sooner; permanent immunity with respect to acts performed in exercise of his functions; special provisions for family members. Art. 53.	Same. Art. 58(2).
Third States, through which the officer passes or in which he finds himself while proceeding to take up, return to, or leave post, to accord him all the immunities provided in the other Convention articles as required to ensure his transit or return; same applies to officer's family members. Art. 54(1).	Inapplicable.

Career Consular Officers	Honorary Consular Officers
Third States not to hinder the transit of other consular post members or members of their family. Art. 54(2).	Inapplicable.
Third States to afford protection to official correspondence and other official communication; inviolability and protection afforded to consular couriers. Art. 54(3).	Same. Art. 58(2).
Consular officers have the duty to respect receiving State laws and regulations. Art. 55(1).	Same. Art. 58(2).
Consular premises not to be used in manner incompatible with consular functions. Art. 55(2).	Same. Art. 58(1)
Above paragraph not to limit or prevent placing officers of other institutions and agencies in part of the building in which the consular premises are situated, provided they are separate from the post. Art. 55(3).	Same. Art. 58(1)
Consular post members to comply with receiving State laws and regulations regarding insurance against third party risks. Art. 56.	Inapplicable.
Career consular officers not to carry on for personal profit any professional or commercial activity in the receiving State. Art. 57(1).	Inapplicable.
Inapplicable.	Exchange of consular bags between two consular posts headed by honorary consular officers in different States is not allowed without the consent of the two receiving States concerned. Art. 59.

Career Consular Officers	Honorary Consular Officers
Inapplicable.	Each State free to decide whether it will appoint or receive honorary consular officers. Art. 68.

Jeanne Jagelski

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American Law Division
April 27, 1982

THE CHANCERY (FULBRIGHT) ACT OF 1964

Public Law 88-659

October 13, 1964
[S. 646]

AN ACT

To regulate the location of chanceries and other business offices of foreign governments in the District of Columbia.

D.C. zoning regulations.
Buildings of foreign governments.

52 Stat. 798.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act entitled "An Act providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and the uses of land in the District of Columbia, and for other purposes", approved June 20, 1938, as amended (D.C. Code, sec. 5–418), is amended by inserting "(a)" after "SEC. 6." and by adding at the end of such section the following new subsections:

"(b) After the date of enactment of this subsection a foreign government shall be permitted to construct, alter, repair, convert, or occupy a building anywhere in the District of Columbia, other than a district or zone restricted in accordance with this Act to use for industrial purposes, for use by such government as an embassy.

"(c) After the date of enactment of this subsection, except as otherwise provided in subsection (d) of this section, no foreign government shall be permitted to construct, alter, repair, convert, or occupy a building for use as a chancery where official business of such government is to be conducted on any land, regardless of the date such land was acquired, within any district or zone restricted in accordance with this Act to use for residential purposes.

"(d) After the date of enactment of this subsection a foreign government shall be permitted to construct, alter, repair, convert, or occupy a building for use as a chancery within any district or zone restricted in accordance with this Act to use for medium-high density apartments or high density apartments if the Board of Zoning Adjustment shall determine after a public hearing that the proposed use and the building in which the use is to be conducted are compatible with the present and proposed development of the neighborhood. In determining compatibility the Board of Zoning Adjustment must find that—

"(1) in districts or zones restricted in accordance with this Act to use for medium-high density apartments, that off-street parking spaces will be provided at a ratio of not less than one such space for each twelve hundred square feet of gross floor area; and

"(2) in districts or zones restricted in accordance with this Act to use for high density apartments, that off-street parking spaces will be provided at a ratio of not less than one such space for each one thousand eight hundred square feet of gross floor area: and

"(3) the height of the building does not exceed the maximum permitted in the district or zone in which it is located; and

"(4) the architectural design and the arrangement of all structures and off-street parking spaces are in keeping with the character of the neighborhood.

Definitions.

"(e) As used in this section, the term—

"(1) 'embassy' means a building used as the official residence of the chief of a diplomatic mission of a foreign government.

"(2) 'chancery' means a building containing business offices of the chief of a diplomatic mission of a foreign government where official business of such government is conducted, and such term shall include any chancery annex, and the business offices of attachés of a foreign government who are under the personal direction and superintendence of the chief of mission of such government. Such term shall not include business offices of nondiplomatic missions of foreign governments such as purchasing, financial, educational, or other missions of comparable nondiplomatic nature.

"(3) 'person' means any individual who is subject to direction by the chief of mission of a foreign government and is engaged in diplomatic activities recognized as such by the Secretary of State."

Sec. 2. Nothing in the amendments made by the first section of this Act shall prohibit—

(1) the future or continued use of a building as a chancery or the making of ordinary repairs to any such building for which lawful use as a chancery existed on the date of enactment of this Act, or

(2) the construction, reconstruction, expansion, or alteration in accordance with any permit issued by the Board of Commissioners of the District of Columbia on or before February 18, 1964, of any building used or to be used as a chancery.

Sec. 3. The amendments made by the first section of this Act shall apply only to applications for special exemptions to the zoning regulations filed with the Board of Zoning Adjustment after May 1, 1964.

Transfer of property between foreign governments.

52 Stat. 798.

Sec. 4. After the date of enactment of this Act, no building or chancery being used by a foreign government in the District of Columbia shall be transferred to or used by another foreign government unless such use is in accordance with section 6 of the Act of June 20, 1938, as amended (D.C. Code, sec. 5–418), or unless such use was in accordance with applicable law at the time of this enactment.

Sec. 5. This Act and the amendments made thereby shall not be administered in such a way as to discriminate against any foreign government on the basis of the race, color, or creed of any of its citizens.

Approved October 13, 1964.

UNITED NATIONS CONFERENCE
ON DIPLOMATIC INTERCOURSE AND IMMUNITIES

VIENNA CONVENTION
ON
DIPLOMATIC RELATIONS

UNITED NATIONS
1961

VIENNA CONVENTION ON DIPLOMATIC RELATIONS

The States Parties to the present Convention,

Recalling that peoples of all nations from ancient times have recognized the status of diplomatic agents,

Having in mind the purposes and principles of the Charter of the United Nations [1] concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Believing that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realising that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States,

Affirming that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

Have agreed as follows:

Article 1

For the purpose of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

(a) the "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;

(b) the "members of the mission" are the head of the mission and the members of the staff of the mission;

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[1] TS 993; 59 Stat. 1031.

(*c*) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;

(*d*) the "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;

(*e*) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;

(*f*) the "members of the administrative and technical staff" are the members of the staff of the mission employed in the administrative and technical service of the mission;

(*g*) the "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;

(*h*) a "private servant" is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;

(*i*) the "premises of the mission" are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.

Article 2

The establishment of diplomatic relations between States, and of permanent diplomatic missions, takes place by mutual consent.

Article 3

1. The functions of a diplomatic mission consist *inter alia* in:

(*a*) representing the sending State in the receiving State;

(b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international [illegible]

(c) negotiating [illegible] Government of the receiving State;

(d) ascertaining [illegible] means conditions and developments in the receiving [illegible] and reporting thereon to the Government of the sending State;

(e) promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

2. Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission.

Article 4

1. The sending State must make certain that the *agrément* of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.

2. The receiving State is not obliged to give reasons to the sending State for a refusal of *agrément*.

Article 5

1. The sending State may, after it has given due notification to the receiving States concerned, accredit a head of mission or assign any member of the diplomatic staff, as the case may be, to more than one State, unless there is express objection by any of the receiving States.

2. If the sending State accredits a head of mission to one or more other States it may establish a diplomatic mission headed by a *chargé d'affaires ad interim* in each State where the head of mission has not his permanent seat.

3. A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization.

Article 6

Two or more States may accredit the same person as head of mission to another State, unless objection is offered by the receiving State.

Article 7

Subject to the provisions of Articles 5, 8, 9 and 11, the sending State may freely appoint the members of the staff of the mission. In the case of military, naval or air attachés, the receiving State may require their names to be submitted beforehand, for its approval.

Article 8

1. Members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.

2. Members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 9

1. The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the mission or any member of the diplomatic staff of the mission is persona

non grata or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared non grata or not acceptable before arriving in the territory of the receiving State.

2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this Article, the receiving State may refuse to recognise the person concerned as a member of the mission.

Article 10

1. The Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, shall be notified of:

(a) the appointment of members of the mission, their arrival and their final departure or the termination of their functions with the mission;

(b) the arrival and final departure of a person belonging to the family of a member of the mission and, where appropriate, the fact that a person becomes or ceases to be a member of the family of a member of the mission;

(c) the arrival and final departure of private servants in the employ of persons referred to in sub-paragraph (a) of this paragraph and, where appropriate, the fact that they are leaving the employ of such persons;

(d) the engagement and discharge of persons resident in the receiving State as members of the mission or private servants entitled to privileges and immunities.

2. Where possible, prior notification of arrival and fina. departure shall also be given.

Article 11

1. In the absence of specific agreement as to the size of the mission, the receiving State may require that the size of a mission be

kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the receiving State and to the needs of the particular mission.

2. The receiving State may equally, within similar bounds and on a non-discriminatory basis, refuse to accept officials of a particular category.

Article 12

The sending State may not, without the prior express consent of the receiving State, establish offices forming part of the mission in localities other than those in which the mission itself is established.

Article 13

1. The head of the mission is considered as having taken up his functions in the receiving State either when he has presented his credentials or when he has notified his arrival and a true copy of his credentials has been presented to the Ministry for Foreign Affairs of the receiving State, or such other ministry as may be agreed, in accordance with the practice prevailing in the receiving State which shall be applied in a uniform manner.

2. The order of presentation of credentials or of a true copy thereof will be determined by the date and time of the arrival of the head of the mission.

Article 14

1. Heads of mission are divided into three classes, namely:

(a) that of ambassadors or nuncios accredited to Heads of State, and other heads of mission of equivalent rank;

(b) that of envoys, ministers and internuncios accredited to Heads of State;

(c) that of *chargés d'affaires* accredited to Ministers for Foreign Affairs.

2. Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class.

Article 15

The class to which the heads of their missions are to be assigned shall be agreed between States.

Article 16

1. Heads of mission shall take precedence in their respective classes in the order of the date and time of taking up their functions in accordance with Article 13.

2. Alterations in the credentials of a head of mission not involving any change of class shall not affect his precedence.

3. This article is without prejudice to any practice accepted by the receiving State regarding the precedence of the representative of the Holy See.

Article 17

The precedence of the members of the diplomatic staff of the mission shall be notified by the head of the mission to the Ministry for Foreign Affairs or such other ministry as may be agreed.

Article 18

The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class.

Article 19

1. If the post of head of the mission is vacant, or if the head of the mission is unable to perform his functions, a *chargé d'affaires ad*

interim shall act provisionally as head of the mission. The name of the chargé d'affaires ad interim shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State to the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

2. In cases where no member of the diplomatic staff of the mission is present in the receiving State, a member of the administrative and technical staff may, with the consent of the receiving State, be designated by the sending State to be in charge of the current administrative affairs of the mission.

Article 20

The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of the mission, and on his means of transport.

Article 21

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its mission or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members.

Article 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this Article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 25

The receiving State shall accord full facilities for the performance of the functions of the mission.

Article 26

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the mission freedom of movement and travel in its territory.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3. The diplomatic bag shall not be opened or detained.

4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers _ad hoc_. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorised port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

2. His papers, correspondence and, except as provided in paragraph 3 of Article 31, his property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

(a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

2. A diplomatic agent is not obliged to give evidence as a witness.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 37 may be waived by the sending State.

2. Waiver must always be express.

3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

Article 33

1. Subject to the provisions of paragraph 3 of this Article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall also apply to private servants who are in the sole employ of a diplomatic agent, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this Article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of Article 39;

(d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of Article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the mission;

(b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving

State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in Articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in Articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of Article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in Article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in Article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 38

1. Except insofar as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of

his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags,

whose presence in the territory of the third State is due to force majeure.

Article 41

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

3. The premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving State.

Article 42

A diplomatic agent shall not in the receiving State practise for personal profit any professional or commercial activity.

Article 43

The function of a diplomatic agent comes to an end, inter alia:

(a) on notification by the sending State to the receiving State that the function of the diplomatic agent has come to an end;

(b) on notification by the receiving State to the sending State that, in accordance with paragraph 2 of Article 9, it refuses to recognise the diplomatic agent as a member of the mission.

Article 44

The receiving State must, even in case of armed conflict, grant facilities in order to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. It must, in particular, in case of need, place at their disposal the necessary means of transport for themselves and their property.

Article 45

If diplomatic relations are broken off between two States, or if a mission is permanently or temporarily recalled:

(a) the receiving State must, even in case of armed conflict, respect and protect the premises of the mission, together with its property and archives;

(b) the sending State may entrust the custody of the premises of the mission, together with its property and archives, to a third State acceptable to the receiving State;

(c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

Article 46

A sending State may with the prior consent of a receiving State, and at the request of a third State not represented in the receiving State, undertake the temporary protection of the interests of the third State and of its nationals.

Article 47

1. In the application of the provisions of the present Convention, the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

(a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its mission in the sending State;

(b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 48

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice,[1] and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows: until 31 October 1961 at the Federal Ministry for Foreign Affairs of Austria and subsequently, until 31 March 1962, at the United Nations Headquarters in New York.

Article 49

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 50

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 48. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 51

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

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[1] TS 993; 59 Stat. 1055.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 52

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 48:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 48, 49 and 50;

(b) of the date on which the present Convention will enter into force, in accordance with Article 51.

Article 53

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 48.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this eighteenth day of April one thousand nine hundred and sixty-one.

MULTILATERAL

Vienna Convention on Consular Relations and Optional Protocol on Disputes

Done at Vienna April 24, 1963;
Ratification advised by the Senate of the United States of America October 22, 1969;
Ratified by the President of the United States of America November 12, 1969;
Ratification of the United States of America deposited with the Secretary-General of the United Nations November 24, 1969;
Proclaimed by the President of the United States of America January 29, 1970;
Entered into force with respect to the United States of America December 24, 1969.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Vienna Convention on Consular Relations and the Optional Protocol Concerning the Compulsory Settlement of Disputes were signed at Vienna on April 24, 1963;

WHEREAS the texts of the Convention and Protocol, as certified for the Secretary-General of the United Nations, are word for word as follows:

UNITED NATIONS CONFERENCE ON CONSULAR RELATIONS

VIENNA CONVENTION
ON
CONSULAR RELATIONS

UNITED NATIONS
1964

TIAS 6820

VIENNA CONVENTION ON CONSULAR RELATIONS

The States Parties to the present Convention,

Recalling that consular relations have been established between peoples since ancient times,

Having in mind the Purposes and Principles of the Charter of the United Nations [1] concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961, [2]

Believing that an international convention on consular relations, privileges and immunities would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consular posts on behalf of their respective States,

Affirming that the rules of customary international law continue to govern matters not expressly regulated by the provisions of the present Convention,

Have agreed as follows:

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[1] TS 993; 59 Stat. 1031.

[2] 500 UNTS 95.

Article 1

Definitions

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

(a) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;

(b) "consular district" means the area assigned to a consular post for the exercise of consular functions;

(c) "head of consular post" means the person charged with the duty of acting in that capacity;

(d) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;

(e) "consular employee" means any person employed in the administrative or technical service of a consular post;

(f) "member of the service staff" means any person employed in the domestic service of a consular post;

(g) "members of the consular post" means consular officers, consular employees and members of the service staff;

(h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;

(i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;

(j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;

(k) "consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

CHAPTER I. CONSULAR RELATIONS IN GENERAL

SECTION I. ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS

Article 2

Establishment of consular relations

1. The establishment of consular relations between States takes place by mutual consent.

2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.

3. The severance of diplomatic relations shall not *ipso facto* involve the severance of consular relations.

Article 3

Exercise of consular functions

Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.

Article 4

Establishment of a consular post

1. A consular post may be established in the territory of the receiving State only with that State's consent.

2. The seat of the consular post, its classification and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post, its classification or the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or a consular agency in a locality other than that in which it is itself established.

5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

Article 5

Consular functions

Consular functions consist in:

(a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;

(b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;

(c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;

(d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;

(e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;

(f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;

(g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;

(h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;

(i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;

(j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;

(k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;

(l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorised by the laws and regulations of the sending State;

(g) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 6

Exercise of consular functions outside the consular district

A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

Article 7

Exercise of consular functions in a third State

The sending State may, after notifying the States concerned, entrust a consular post established in a particular State with the exercise of consular functions in another State, unless there is express objection by one of the States concerned.

Article 8

Exercise of consular functions on behalf of a third State

Upon appropriate notification to the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

Article 9

Classes of heads of consular posts

1. Heads of consular posts are divided into four classes, namely:

   (*a*) consuls-general;
   (*b*) consuls;
   (*c*) vice-consuls;
   (*d*) consular agents.

2. Paragraph 1 of this Article in no way restricts the right of any of the Contracting Parties to fix the designation of consular officers other than the heads of consular posts.

Article 10

Appointment and admission of heads of consular posts

1. Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.

2. Subject to the provisions of the present Convention, the formalities for the appointment and for the admission of the head of a consular post are determined by the laws, regulations and usages of the sending State and of the receiving State respectively.

Article 11

The consular commission or notification of appointment

1. The head of a consular post shall be provided by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, his full name, his category and class, the consular district and the seat of the consular post.

2. The sending State shall transmit the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.

3. If the receiving State agrees, the sending State may, instead of a commission or similar instrument, send to the receiving State a notification containing the particulars required by paragraph 1 of this Article.

Article 12

The exequatur

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an exequatur, whatever the form of this authorization.

2. A State which refuses to grant an exequatur is not obliged to give to the sending State reasons for such refusal.

3. Subject to the provisions of Articles 13 and 15, the head of a consular post shall not enter upon his duties until he has received an exequatur.

Article 13

Provisional admission of heads of consular posts

Pending delivery of the exequatur, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of the present Convention shall apply.

Article 14

Notification to the authorities of the consular district

As soon as the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to have the benefit of the provisions of the present Convention.

Article 15

Temporary exercise of the functions of the head of a consular post

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

Article 16

Precedence as between heads of consular posts

1. Heads of consular posts shall rank in each class according to the date of the grant of the *exequatur*.

2. If, however, the head of a consular post before obtaining the *exequatur* is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission; this precedence shall be maintained after the granting of the *exequatur*.

3. The order of precedence as between two or more heads of consular posts who obtained the *exequatur* or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments or the notifications referred to in paragraph 3 of Article 11 were presented to the receiving State.

4. Acting heads of posts shall rank after all heads of consular posts and, as between themselves, they shall rank according to the dates on which they assumed their functions as acting heads of posts as indicated in the notifications given under paragraph 2 of Article 15.

5. Honorary consular officers who are heads of consular posts shall rank in each class after career heads of consular posts, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of consular posts shall have precedence over consular officers not having that status.

Article 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorised to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organisation. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Article 18

Appointment of the same person by two or more States as a consular officer

Two or more States may, with the consent of the receiving State, appoint the same person as a consular officer in that State.

Article 19

Appointment of members of consular staff

1. Subject to the provisions of Articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The full name, category and class of all consular officers, other than the head of a consular post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of Article 23.

3. The sending State may, if required by its laws and regulations, request the receiving State to grant an *exequatur* to a consular officer other than the head of a consular post.

4. The receiving State may, if required by its laws and regulations, grant an *exequatur* to a consular officer other than the head of a consular post.

Article 20

Size of the consular staff

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the consular district and to the needs of the particular consular post.

Article 21

Precedence as between consular officers of a consular post

The order of precedence as between the consular officers of a consular post and any change thereof shall be notified by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

Article 22

Nationality of consular officers

1. Consular officers should, in principle, have the nationality of the sending State.

2. Consular officers may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 23

Persons declared non grata

1. The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consular post.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this Article, the receiving State may, as the case may be, either withdraw the *exequatur* from the person concerned or cease to consider him as a member of the consular staff.

3. A person appointed as a member of a consular post may be declared unacceptable before arriving in the territory of the receiving State or, if already in the receiving State, before entering on his duties with the consular post. In any such case, the sending State shall withdraw his appointment.

4. In the cases mentioned in paragraphs 1 and 3 of this Article, the receiving State is not obliged to give to the sending State reasons for its decision.

Article 24

Notification to the receiving State of appointments, arrivals and departures

1. The Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry shall be notified of:

(a) the appointment of members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post;

(b) the arrival and final departure of a person belonging to the family of a member of a consular post forming part of his household and, where appropriate, the fact that a person becomes or ceases to be such a member of the family;

(c) the arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such;

(d) the engagement and discharge of persons resident in the receiving State as members of a consular post or as members of the private staff entitled to privileges and immunities.

2. When possible, prior notification of arrival and final departure shall also be given.

SECTION II. END OF CONSULAR FUNCTIONS

Article 25

Termination of the functions of a member of a consular post

The functions of a member of a consular post shall come to an end *inter alia*:

(*a*) on notification by the sending State to the receiving State that his functions have come to an end;

(*b*) on withdrawal of the *exequatur*;

(*c*) on notification by the receiving State to the sending State that the receiving State has ceased to consider him as a member of the consular staff.

Article 26

Departure from the territory of the receiving State

The receiving State shall, even in case of armed conflict, grant to members of the consular post and members of the private staff, other than nationals of the receiving State, and to members of their families forming part of their households irrespective of nationality, the necessary time and facilities to enable them to prepare their departure and to leave at the earliest possible moment after the termination of the functions of the members concerned. In particular, it shall, in case of need, place at their disposal the necessary means of transport for themselves and their property other than property acquired in the receiving State the export of which is prohibited at the time of departure.

Article 27

Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

1. In the event of the severance of consular relations between two States:

(a) the receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consular post and the consular archives;

(b) the sending State may entrust the custody of the consular premises, together with the property contained therein and the consular archives, to a third State acceptable to the receiving State;

(c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

2. In the event of the temporary or permanent closure of a consular post, the provisions of sub-paragraph (a) of paragraph 1 of this Article shall apply. In addition,

(a) if the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consular post; or

(b) if the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of sub-paragraphs (b) and (c) of paragraph 1 of this Article shall apply.

CHAPTER II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

SECTION I. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

Article 28

Facilities for the work of the consular post

The receiving State shall accord full facilities for the performance of the functions of the consular post.

Article 29

Use of national flag and coat-of-arms

1. The sending State shall have the right to the use of its national flag and coat-of-arms in the receiving State in accordance with the provisions of this Article.

2. The national flag of the sending State may be flown and its coat-of-arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.

3. In the exercise of the right accorded by this Article regard shall be had to the laws, regulations and usages of the receiving State.

Article 30

Accommodation

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

Article 31

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this Article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

3. Subject to the provisions of paragraph 2 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

Article 32

Exemption from taxation of consular premises

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

Article 33

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at all times and wherever they may be.

Article 34

Freedom of movement

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

Article 35

Freedom of communication

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State, nor, unless he is a national of the

sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 16

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph;

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

Article 37

Information in cases of deaths, guardianship or trusteeship, wrecks and air accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred;

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

(c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

Article 38

Communication with the authorities of the receiving State

In the exercise of their functions, consular officers may address:

(a) the competent local authorities of their consular district;

(b) the competent central authorities of the receiving State if and to the extent that this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

Article 40

Protection of consular officers

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 41

Personal inviolability of consular officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this Article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this Article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 42

Notification of arrest, detention or prosecution

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of any such measure, the receiving State shall notify the sending State through the diplomatic channel.

Article 43

Immunity from jurisdiction

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:

(a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or

(b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 44

Liability to give evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

Article 45

Waiver of privileges and immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

Article 46

Exemption from registration of aliens and residence permits

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this Article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

Article 47

Exemption from work permits

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour.

2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this Article.

Article 48

Social security exemption

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;

(c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;

(d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

Article 50

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the consular post;

(b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilisation by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

Article 51

Estate of a member of the consular post or of a member of his family

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

(a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;

(b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

Article 52

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 53

Beginning and end of consular privileges and immunities

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

Article 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

Article 55

Respect for the laws and regulations of the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

Article 56

Insurance against third party risks

Members of the consular post shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

Article 57

Special provisions concerning private gainful occupation

1. Career consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.

2. Privileges and immunities provided in this Chapter shall not be accorded:

- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
- (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff;
- (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III. REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

Article 58

General provisions relating to facilities, privileges and immunities

1. Articles 28, 29, 30, 34, 35, 36, 37, 38 and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles 59, 60, 61 and 62.

2. Articles 42 and 43, paragraph 3 of Article 44, Articles 45 and 53 and paragraph 1 of Article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 63, 64, 65, 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

4. The exchange of consular bags between two consular posts headed by honorary consular officers in different States shall not be allowed without the consent of the two receiving States concerned.

Article 59

Protection of the consular premises

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

Article 60

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

Article 61

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 62

Exemption from customs duties

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

Article 63

Criminal proceedings

If criminal proceedings are instituted against an honorary consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except when he is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 64

Protection of honorary consular officers

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his official position.

Article 65

Exemption from registration of aliens and residence permits

Honorary consular officers, with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

Article 66

Exemption from taxation

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

Article 67

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 68

Optional character of the institution of honorary consular officers

Each State is free to decide whether it will appoint or receive honorary consular officers.

CHAPTER IV. GENERAL PROVISIONS

Article 69

Consular agents who are not heads of consular posts

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in paragraph 1 of this Article may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them shall be determined by agreement between the sending State and the receiving State.

Article 70

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

3. In the exercise of consular functions a diplomatic mission may address:

(a) the local authorities of the consular district;

(b) the central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

Article 71

Nationals or permanent residents of the receiving State

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of

official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in Article 42. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.

Article 72

Non-discrimination

1. In the application of the provisions of the present Convention the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

(a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consular posts in the sending State;

(b) Where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 73

Relationship between the present Convention and other international agreements

1. The provisions of the present Convention shall not affect other international agreements in force as between States parties to them.

2. Nothing in the present Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof.

CHAPTER V: FINAL PROVISIONS

Article 74

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice,[1] and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

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[1] TS 993; 59 Stat. 1055.

Article 75

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 76

Accession

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 74. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 77

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 78

Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 74:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 74, 75 and 76;

(b) of the date on which the present Convention will enter into force, in accordance with Article 77.

Article 79

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 74.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

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